

April 1, 2008

The City Council of the City of Fort Morgan, Colorado, met this day in the Council Chambers of City Hall. The Honorable Mayor Jack L. Darnell called the regular meeting to order at 7:00 p.m.

The Pledge of Allegiance was given.

Roll Call: Present: Honorable Mayor Jack L. Darnell
Councilmember Sharol Lyn Deal
Councilmember Terry McAlister
Councilmember James A. Powers
Councilmember Terri P. Schafer
Councilmember Ron Shaver
Councilmember Alberta M. Simmons

The meeting was also attended by Acting City Manager Keith Kuretich, City Attorney Jeffrey Wells, Police Lieutenant Darin Sagel, City Treasurer Pixie Jones, Utility Directors Gary Dreessen and Bob Weimer, Community Development Director Pat Merrill, Community Services Director Don Shedd, Director of Human Resources & Risk Management Jody Prentice and Deputy City Clerk Cheryl Winberg.

HIRING OF CITY MANAGER / TESTING AND TIMELINE

A. TESTING REGARDING JOB SUITABILITY EVALUATION – Acting City Manager Keith Kuretich announced that Dr. Tiffany Hild could not be at the meeting this evening. Director Prentice will proceed with the other items for discussion.

B. REVISION OF TIMELINE FOR HIRING AND ASSESSMENT CENTER TESTING – DIRECTOR PRENTICE

1. Director Prentice asked if Council wanted all Councilmembers available for the interviews originally scheduled for June 27/28 because Councilmember Shaver is not available on those dates; the next available time slot would be July 17/18/19. There was discussion on the subject and Council stated that they all want to be part of the process. It was agreed upon to push the interview dates out to July 17/18/19. Mayor Darnell reminded all Councilmembers and Director Prentice to please do their best to keep those dates available with no more changes or delays and to present the updated timeline at next week's work session.

2. Director Prentice is looking for direction on what type or types of testing Council would like to have the candidates go through. She said we will have to build in a fourth day if we decide to do both types of testing. Discussion took place on the differences in the two proposed types of tests – a job assessment test and a suitability analysis. Director Prentice noted that it would be important that she be given specific priorities on qualities that Councilmembers want in the new city manager and on which topic they would like to be part of the testing. There was discussion about the types of testing other Staff members have gone through. Kuretich said the one suggested is built around, and not uncommon for, professionals, who go through this type of analysis. Prentice said analysis would be crafted for the job description we are looking for. Discussed process if use the analysis – two parts involved.

Mayor Darnell was concerned about a potential nine-page questionnaire and interview taking place, which we typically do in open with the public, then the questionnaire portion be considered an open record? Attorney Wells responded that we would have take a closer look at the situation, but if they're a finalist and are providing the questionnaire as part of being finalist, then there's a basis to say that it would be considered part of their employment or personnel file. Certain things are defined as being part of the personnel file under the open records act and other things are not. The question is whether or not, for an Executive Session, this interview would be fall under an employee issue under the open meetings law. If the record was produced for and used in an Executive Session, it would maintain privilege under the Executive Session. Otherwise, we would have to find some sort of basis under the open records act to maintain privilege.

We are possibly looking at a review of a person's history and potentially a psychological evaluation, it could be protected as a medical record, which is not subject to the open records act. Because this questionnaire/document would not be created until a conditional job offer has been made, the employer/employee relationship would be established and the document would be protected as a personnel file document. You may want to narrow it down to one person and then, if you don't get the result you want, rescind your conditional job offer and do the test on the next person. As long as a conditional job offer is in place, you have the employer/employee relationship.

Councilmember Powers' preference would be doing none of the testing, and his second preference would be to use one of them only. The previous job site visit would be one of most important parts of process, along with a background check. Councilmember Schafer would prefer one type – the assessment center, then get the public's feedback. Councilmember Simmons said both would be very time consuming – her choice would be the assessment center with public feedback and buy-in. The assessment process makes them provide immediate reaction to what qualities we're looking for – based on our questions. Councilmember McAlister agrees with Councilmember Schafer. Councilmember Shaver restated the differences between the two tests; he thinks we can accomplish what we need through the interview process.

Councilmember Simmons offered a motion to include an assessment center in the hiring process for the City Manager. Her motion was seconded by Councilmember Powers, the vote upon roll call being as follows: Ayes: Mayor Darnell; Councilmembers Deal, McAlister, Powers, Schafer and Simmons. Nays: Councilmember Shaver. The motion carried.

Acting City Manager Kuretich asked what type of assessment Council prefers. It was decided to discuss this at the upcoming retreat on April 29.

PRESENTATION OF BIDS SUBMITTED FOR MATERIALS FOR THE ELECTRIC UNDERGROUND BORING PROJECT

Director Weimer presented information for the purchase of materials for the electric underground boring project. The project consists of removing the electric line going over Interstate 76 and boring new line under the Interstate and Main Street. It was budgeted for 2008 at \$230,000. He provided information to Council on the Bid process. Western United Electric's bid was \$49,335.55; Kriz Davis's bid was \$14,898.47; KVA Supply \$16,497.00. A bid submitted by Wesco of Aurora, Colorado, did not meet all of the bid specifications.

Councilmember Shaver offered the following Resolution and moved for its adoption. His motion was seconded by Councilmember Powers; said Resolution being in words, letters and figures as follows, to-wit:

RESOLUTION

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT MORGAN, COLORADO, accept the bid submitted by Kris Davis of Scottsbluff, Nebraska, in the amount of \$14,898.47; and to accept the portion of the bid submitted by Western United of Brighton, Colorado, in the amount of \$49,335.55; and to accept the portion of the bid submitted by KVA Supply of Denver, Colorado, in the amount of \$16,497; for a total amount of \$80,731.02 for the materials for the Electric Underground Boring Project.

PASSED, APPROVED AND ADOPTED THIS 1ST DAY OF April, 2008, the vote upon roll call being as follows: Ayes: Mayor Darnell; Councilmembers Deal, McAlister, Powers, Schafer, Shaver and Simmons. Nays: None.

RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE THE GOLF COURSE MAINTENANCE MANAGEMENT SERVICES AGREEMENT BETWEEN THE CITY OF FORT MORGAN AND GRAFF'S TURF FARMS

Acting City Manager Kuretich presented a Resolution and contract for Council's consideration concerning a Golf Course Maintenance Management Services Agreement between the City of Fort Morgan and Graff's Turf Farms Inc. The Table File memorandum from Treasurer Jones answered questions asked at last week's work session regarding financial considerations. James Graff and Doug Fisher were present at the meeting for questions. Councilmember Simmons and Powers both stated they were concerned about spending \$15,000 for 23 days of service; but after reviewing the contract and discussing the matter with Acting City Manager Kuretich and Director Shedd they will approve because we need to do something to the course for playability. Councilmember Powers asked that staff track what is done at the Golf Course during the 23 days of the contract. Mayor Darnell reviewed the updated budget information from Treasurer Jones.

Councilmember McAlister offered the following Resolution and moved for its adoption. His motion was seconded by Councilmember Powers; said Resolution being in words, letters and figures as follows, to-wit:

RESOLUTION NO. 08-04-01

AUTHORIZING THE MAYOR TO EXECUTE
THE GOLF COURSE MAINTENANCE MANAGEMENT SERVICES AGREEMENT BETWEEN
THE CITY OF FORT MORGAN AND GRAFF'S TURF FARMS INC.

WHEREAS, the Contractor agrees to provide professional golf course maintenance management services to the City of Fort Morgan Municipal Golf Course beginning April 1, 2008 and continuing through July 1, 2008 at the cost of \$15,000.00; and,

WHEREAS, the parties have outlined the duties and responsibilities in the March 28, 2008 "Graff's Turf Farms Inc. Proposal for City of Fort Morgan Municipal Golf Course" attached hereto and incorporated herein by this reference; and,

WHEREAS, City Staff has recommended the approval of the proposal as presented and the approval of the Golf Course Maintenance Services Agreement attached hereto and incorporated herein by this reference.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FORT MORGAN, COLORADO:

SEC. 1: The Mayor is hereby authorized to execute the Golf Course Maintenance Services Agreement.

INTRODUCED, PASSED, APPROVED AND ADOPTED this 1st day of April 2008, the vote upon roll call being as follows:

Ayes: Mayor Darnell; Councilmembers Deal, McAlister, Powers, Schafer, Shaver and Simmons

Nays: None.

Absent /Abstain: None.

THE CITY COUNCIL OF THE CITY OF FORT MORGAN, COLORADO

[SEAL]

BY: /s/ Jack Darnell
Mayor

ATTEST:

/s/ Andrea Strand
City Clerk

STATE OF COLORADO)
COUNTY OF MORGAN) ss. CERTIFICATE
CITY OF FORT MORGAN)

I, Andrea Strand, City Clerk of the City of Fort Morgan, Colorado, do hereby certify that the above and foregoing Resolution is a true, perfect and complete copy of the Resolution adopted by the City Council and is identical to the original thereof appearing in the official records of the City of Fort Morgan, Colorado, and that the same has not been, since its adoption, in any respect, rescinded or amended.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of the City of Fort Morgan this 2nd day of April, 2008.

/s/ Andrea Strand, City Clerk

APPROVE THE SITE PLAN REVIEW TO THE CITY ZONING CODE

Director Merrill informed Council that the corrections had been made in numbering as suggested at the previous work session. He stated this plan would help protect private property values to adjoining properties.

Councilmember Shaver offered a motion to approve the Site Plan Review to the City zoning Code as presented by staff. His motion was seconded by Councilmember Schafer. The motion carried unanimously; said Site Plan Review being in words, letters and figures as follows, to-wit:

SECTION 14A - SITE PLAN REVIEW

Sec. 14A-01. Purpose.

The purpose of this Article is to assure at the time of developmental planning compliance with the Comprehensive Plan and City requirements as well as the on and off-site impacts of the proposed development in relation to storm drainage capacity and design, provision of an adequate water supply and sanitary wastewater disposal systems and other public utilities, accessibility to and circulation upon the site for vehicular and pedestrian traffic, off-street parking and unloading, and other site and structural design elements that would result in use and activity upon the lot or parcel which may have an adverse effect upon the public health, safety and general welfare of the surrounding area if not properly evaluated prior to development or construction.

NOTE: The City of Fort Morgan has adopted the 2003 International Building Code(s) and the 2005 National Electric Code.

Sec. 14A-02. Uses requiring Site Plan Review.

The following land uses, buildings and structures require Site Plan Review and approval:

- (1) All residential subdivisions containing five (5) or more dwelling units.
- (2) All multi-family dwellings containing five (5) or more dwelling units.
- (3) Building conversion from commercial to residential ground floor apartments.
- (4) All principal nonresidential buildings or structures permitted in any residential district.
- (5) Communication towers.
- (6) All commercial buildings and uses.
- (7) All industrial buildings and uses.
- (8) All conditional uses.
- (9) All minerals or other natural resource extraction operations.
- (10) See Section 14A-20 for uses requiring sketch plan approval.

Sec. 14A-03. Prohibitions prior to Site Plan Approval.

The following practices are prohibited for any development for which Site Plan approval is required, until a Site Plan is approved and is in effect. Any violation of this prohibition shall be subject to the legal and administrative procedures and penalties cited in Section 14A-19.

- (1) Grading activities which; changes the elevation of the site, alter the drainage pattern(s) of the site, increase storm water runoff, cause or are likely to cause soil erosion.
- (2) Removal of vegetation which form a visual buffer or have been identified by the City Staff to be aesthetically significant, but in no case shall trees larger than eight (8) inches in diameter be removed prior to approval.
- (3) Start of any construction activities(s) that are part of a new development for which a Site Plan is required. Such activities include but are not limited to; building of access roads or driveways, demolition of existing structures, excavation for foundations, placement of pavement, pouring of concrete, construction of curb cuts, placement of exterior signage, extension or upgrade of sewer or water lines, placement of sidewalks, and building additions.
- (4) Exceptions may be granted to allow access for surveying and soil testing equipment, removal or cleanup of contaminated areas of the sites, removal of dead or diseased vegetation or removal of blight conditions.

Sec. 14A-04. Pre-Application Conference; Staff.

Prior to the submission of an application, a preapplication conference shall be held between the Applicant and the planning/building department to discuss the proposed development, submittal requirements and procedures, the requirements of this code and the Comprehensive Plan and other applicable matters.

Sec. 14A-05. Same-Planning Commission.

A Pre-application Conference may be held with the Planning Commission for the purpose of establishing general guidelines and eliciting feedback from the members of the Planning Commission regarding specific questions or problem areas. The Pre-application Conference is a vehicle intended to provide the Applicant with general guidance prior to the expenditure of large amounts of time and capital in the planning effort. Pre-application Conferences shall be scheduled and heard at regular or special Planning Commission public meetings.

Sec. 14A-06. Application for Site Plan Approval.

Any person having as legal ownership interest in a lot may apply for Site Plan Approval by filing completed forms, paying fees as required and submitting four (4) copies of the Site Plan to the Community Development Director at least fifteen (15) days prior to the date of the Planning Commission Public Hearing.

Sec. 14A-07. Information required with or on the Site Plan.

- (a) Each Site Plan submitted for review shall be of high quality and clearly convey the information required. An acceptable level of quality will generally be produced by following the guidelines below:
 - (1) Be printed in ink or other permanent means.
 - (2) Have a border along the perimeter of the drawing and a title block located in the lower right corner.
 - (3) Be neat, orderly, uncongested, and legible.
 - (4) Lines shall be drawn with straight edges, curves and irregular shapes shall be drawn with compass, template, or other devices common to the drafting industry. Lettering shall be neat and orderly such as that produced from a lettering guide.
 - (5) Computer generated drawings are acceptable provided they meet the general quality standards stated in this Section.

(b) For lots smaller than twenty thousand (20,000) square feet, scale shall not exceed one (1) inch to ten (10) feet. For lots from twenty thousand (20,000) square feet to two (2) acres, scale shall not exceed one (1) inch to twenty (20) feet. For lots greater than two (2) acres, allowable scale shall be determined by the Community Development Director. Each Site Plan shall provide the following information, unless waived by the Planning Commission:

- (1) Scale, north arrow, name and date of plan; dates of revisions thereto.
- (2) Name and address of property owner and Applicant; and the name and address of the developer.
- (3) The Applicant's ownership interest in the property, and if the Applicant is not the fee simple owner, a signed authorization from the owner(s) for the application.
- (4) Name and address of designer. A Site Plan may be prepared by the Applicant. It is recommended, however, that it be prepared by a Professional Community Planner, Engineer, Architect, Landscape Architect, or Land Surveyor registered in the State of Colorado.
- (5) A vicinity map; legal description of the property; dimensions and lot area. Where a metes and bounds description is used, lot line angles or bearings shall be based upon a boundary survey prepared by a Registered Land Surveyor and shall correlate with the legal description.
- (6) Existing topography with a minimum contour interval of two (2) feet may be required by the Community Development Director or Planning Commission.
- (7) Existing natural features such as trees; wooded areas, streams, marshes, ponds, and other wetlands; clear indication of all natural features to remain and to be removed.
- (8) Existing buildings, structures, and other improvements, including drives, utility poles and towers, easements, pipelines, excavations, ditches with their elevations and drainage directions, bridges, culverts; clear indication of all improvements to remain and to be removed.
- (9) General description of deed restrictions, protective covenants or other legal agreements or encumbrances upon the property.
- (10) Owner, use, and zoning classification of adjacent properties; location and outline of buildings; drives, parking lots, and other improvements on adjacent properties.
- (11) The method to be used to control any increase in effluent discharge to the air or any increase in noise level emanating from the site, if applicable. A written description of any nuisance that would be created within the site or external to the site whether by reason of dust, noise, fumes, vibration, smoke or lights, and how the nuisance shall be controlled may be required for heavy commercial and industrial uses.
- (12) Existing public utilities on or serving the property, location and size of water lines and hydrants; location, size and inverts of sanitary sewer and storm sewer lines; location of manholes and catch basins; location and size of well, septic tanks and drain fields (if applicable).
- (13) Names and rights-of-way of existing streets, private roads and/or recorded easements on or adjacent to the property.
- (14) Zoning classification of the subject property; total ground floor area and (all) floor area. In the case of residential units, the plan shall note dwelling unit density, and a schedule of the number, size and type of dwelling units.
- (15) Finished contours at a minimum interval of two (2) feet, and correlated with existing contours so as to clearly indicate cut and fill required may be required by the Community Development Director or Planning Commission. All finished contour lines are to be connected to existing contour lines at or before the property lines.
- (16) Location and exterior dimensions of proposed buildings and structures, with the location to be referenced to property lines or lines to a common base point; distances between buildings; height in feet and number of stories; finished floor elevations; ground grade elevation; and all required setbacks.
- (17) Location and alignment of all proposed streets and drives; rights-of-way where applicable, (shall meet City standards) and typical cross-section of same showing surface, base, and sub-

base materials and dimensions; location and typical details of curbs; turning lanes, with details; location, width, surface elevations and grades of all entries and exits and curve radii.

(18) Location and dimensions of proposed parking lots; numbers of spaces in each lot; dimensions of spaces and aisles; drainage pattern of lots. Typical cross-section showing surface, base, and sub-base materials may be required. Include areas devoted to snow storage.

(19) Location and size of proposed improvements of open space and recreation areas, and statement on proposed maintenance provisions for such areas.

(20) Location, width, and surface of proposed sidewalks and pedestrian ways.

(21) Location, height and type of proposed screens and fences.

(22) Location, height and type of proposed outdoor trash container enclosures.

(23) Location, type, size, area, and height of proposed signs.

(24) Layout, size of lines, inverts, hydrants, drainage flow patterns, location of manholes and catch basins for proposed sanitary sewer, water and storm drainage utilities; location and size of retention ponds and degrees of slope of sides of ponds; calculations for size of storm drainage facilities; location of electric City and telephone poles and wires; location and size of surface mounted equipment for electric City and telephone services; location and size of underground tanks where applicable; location and size of outdoor incinerators; location and size of wells, septic tanks, and drain fields where applicable. If on-site water and sewer facilities are to be used, a letter of approval of same, or a copy of the permit from the Health Department, and/or another appropriate agency shall be submitted.

(25) Size and name of plant materials.

(26) Description of measures to be taken to control soil erosion and sedimentation during and after completion of grading and construction operations, if required by the appropriate City Staff.

(27) Location of proposed retaining walls.

(28) Location, type, direction & intensity of lighting.

(29) Right-of-way expansion where applicable; reservation of dedication of right-of-ways to be clearly noted.

(30) The planned number of people to be employed.

(31) Additional information may be required by the Community Development Director or Planning Commission.

Sec. 14A-08. Public Hearing Requirement.

Prior to voting on a final Site Plan, the Planning Commission shall hold a Public Hearing so as to facilitate public review and understanding of the development proposed. Notice of the date, time, location and subject matter of the Public Hearing shall be published in a newspaper of general circulation in the City not less than ten (10) days before the actual hearing date as established by the Community Development Director.

Sec. 14A-09. Standards for Site Plan Review.

In reviewing the Site Plan, the Planning Commission shall determine that the following standards are observed:

(1) All required information has been provided and is presented as noted in the quality standards referenced in Section 14A-07.

(2) The proposed development conforms to all regulations of the zoning district in which it is located.

(3) The Applicant may legally apply for Site Plan Review.

(4) The plan meets the requirements of the City for fire and police protection, water supply, sewage disposal or treatment, storm drainage, and other public facilities and services.

- (5) Soils not suited for development will be protected or altered in an acceptable manner.
- (6) The proposed development will not cause erosion or sedimentation problems.
- (7) The proposed development does not illegally impinge upon established flood plains located on or near the subject property.
- (8) The drainage plan for the proposed development is adequate to handle anticipated storm water runoff and will not cause undue runoff onto neighboring property or the overloading of water courses in the area.
- (9) The proposed development is coordinated with public improvements serving the subject property and with the other developments in the general vicinity.
- (10) Outside lighting will not adversely affect adjacent or neighboring properties or traffic on adjacent streets.
- (11) Outdoor storage of garbage and refuse is contained, screened from view, and located so as not to be a nuisance to the subject property or neighboring properties.
- (12) Grading or filling will not adversely affect the adjacent or neighboring properties.
- (13) Vehicular and pedestrian traffic within the site as well as to and from the site are both convenient and safe.
- (14) Parking layout will not adversely affect the flow of traffic within the site or impede access to and from the adjacent streets and adjacent properties and snow storage area has been provided to equal ten (10) percent of total parking area.
- (15) The plan meets the required standards of other governmental agencies, where applicable, and that the approval of these agencies has been obtained. The Planning Commission may condition approval of the Site Plan contingent on the Applicant presenting approval to appropriate City Staff.
- (16) The plan provides for the proper continuation and expansion of existing public streets and utilities serving the site, where applicable.
- (17) All phased developments are to be constructed in a logical sequence so that any individual phase will not depend in anyway upon a subsequent phase for adequate access, public utility services, drainage or erosion control.
- (18) When required, landscaping, fences and walls in pursuance of these objectives and same shall be provided and maintained as a continued maintenance of any use to which they are appurtenant.
- (19) The Planning Commission shall have some latitude in specifying the walls, fences and greenbelts.
- (20) The proposed site must be in accord with the spirit and purpose of this Ordinance and not be inconsistent with or contrary to the objectives sought to be accomplished by this Ordinance and principles of sound City and Site Planning.
- (21) Adequate assurances have been received from the Applicant so that clearing the site of topsoil, trees and other natural features before the commencement of building operations; will occur only in those areas approved for the construction of physical improvements.
- (22) The development will not substantially decrease the volume of natural water supply at other locations.
- (23) The development will not, as much as practically possible, detrimentally affect or destroy natural features such as, ponds, streams, wetlands, hillsides or wooded areas, but will preserve and incorporate such features into the development's site design.
- (24) All development must be in accordance with the Comprehensive Plan.
- (25) There shall be room allotted for an alternate tile field on each lot or parcel approved to have a septic tank.

Sec. 14A-10. Planning Commission Action.

- (a) The Planning Commission shall study the Site Plan and shall, within sixty (60) days of the filing date upon which it appears on the Planning Commission Agenda (if the submitted application is complete), make its recommendation to approve or reject the Site Plan. This time limit may be extended upon mutual agreement between the Applicant and the Planning Commission.
- (b) The Planning Commission may require such changes (conditions) in the proposed Site Plan as are needed to gain approval.
- (c) The Planning Commission may attach reasonable conditions to its approval.
- (d) The Planning Commission shall include in its study of the Site Plan consultation with the Community Development Director and other government officials, departments, and public utility companies that might have an interest in or be affected by the proposed development.
- (e) Upon Planning Commission approval of a Site Plan, the Applicant, the owner(s) of record, or the legal representative thereof, the Planning Commission chairman and the Community Development Director shall each sign one (1) copy of the approved Site Plan. Said copy shall become the "official record", and shall be retained in the Planning Commission's files.
- (f) The Planning Commission shall notify the Applicant in writing of its recommendations and the reasons therefore within ten (10) days following the action.

Sec. 14A-11. Expiration of Site Plan Approval.

- (a) Approval of a Site Plan shall expire and be of no effect unless a building permit has been issued within one year of the date of the Planning Commission approval of the Site Plan. Approval of a Site Plan shall expire and be of no effect two (2) years following the date of Planning Commission approval unless construction has begun on the property and is diligently pursued to completion in conformance with the approved Site Plan.
- (b) In the case of a phased development, individual Site Plans shall be submitted and approved for the initial development phase and, in turn, for each subsequent phase of development.
- (c) If any approved Site Plan has expired as set forth herein, no permits for development or use of the subject property shall be issued until all applicable requirements of this Article have been satisfied. An extension may be granted by the Planning Commission for just cause.

Sec. 14A-12. Amendment of Approved Site Plan.

- (a) A development may request a change in an Approved Site Plan. A change in an Approved Site Plan which results in a major change, as defined in this Section, shall require approval by the Planning Commission. All amendments shall follow the procedures and conditions herein required for original plan submittal and review. A change which results in a minor change as defined in this Section shall require a revision by the Planning Commission to the Approved Plan.
- (b) The Planning Commission shall have the authority to determine whether a requested change is major or minor in accordance with this Section. The burden shall be on the Applicant to show good cause for any requested change.
- (c) Changes to be considered major (i.e., those for which an amendment is required) shall include one or more of the following:
 - (1) A change in the original concept of the development.
 - (2) A change in the original use or character of the development.
 - (3) A change in the type of dwelling unit as identified on the approved Site Plan.
 - (4) An increase in the number of dwelling units of ten (10) percent or more, or over five thousand (5,000) square feet of gross floor area of the ground floor, whichever is less.

- (5) An increase in nonresidential floor area of twenty (20) percent or more, or over five thousand (5,000) square feet of the gross area of the ground floor, whichever is less.
- (6) Rearrangement of lots, blocks, and building tracts.
- (7) A change in the character or function of any street.
- (8) A reduction in the amount of land area set aside for common space or the relocation of such area(s).
- (9) An increase in building height.
- (d) Minor changes may be approved by the Planning Commission. The Planning Commission shall consult with appropriate City Officials (e.g. Building Inspector, City Engineer, and Public Safety Director) or Consulting Professional personnel where appropriate. If given authority to approve minor changes, the Community Development Director may refer the matter to the Planning Commission if in his/her opinion the Planning Commission should be consulted. A maximum of one minor change per project may be approved. Minor changes shall include the following:
 - (1) A change in residential floor area, of less than ten (10) percent not to exceed five thousand (5,000) square feet pertaining to gross floor area of the ground floor.
 - (2) An increase in nonresidential floor area less than twenty (20) percent, not to exceed five thousand (5,000) square feet pertaining to gross floor area of the ground floor.
 - (3) Building additions up to five thousand (5,000) square feet that do not modify any other site characteristics such as parking, traffic circulation and drainage.
 - (4) Minor variations in layout of the building or site which do not constitute major changes.
 - (e) The revised drawings, as approved, shall each be signed by the petitioner and the owner(s) of said property in question.

Sec. 14A-13. Modification of Plan during Construction.

All Site Improvements shall conform to the approved Site Plan, including Engineering drawings approved by the Planning Commission. If the Applicant makes any changes during construction in the development in relation to the approved Site Plan, such changes shall be made at the Applicant's risk without any assurances that the Planning Commission or any other agency will approve the changes. The Applicant may be required to correct the unapproved changes so as to conform to the Approved Site Plan.

Sec. 14A-14. "As-Built Drawings"

The following requirements shall prevail for all "as-built drawings" to be provided to the Community Development Director:

- (a) The Applicant shall provide ""as-built drawings"" of all sanitary sewer, water, and storm sewer lines and all appurtenances which were installed on a site for which a Final Site Plan was approved. The drawings shall be submitted to the City Engineer prior to the release of any performance guarantee or part thereof covering such installation.
- (b) The ""as-built drawings"" shall show, but shall not be limited to, such information as the exact size, type and location of pipes; location and size of manholes and catch basins; location and size of valves, fire hydrants, tees and crosses; depth and slopes of retention basins; and location and type of other utility installations. The drawings shall show plan and profile views of all sanitary and storm sewer lines and plan views of all water lines.
- (c) The ""as-built drawings"" shall show all work completed within a public right-of-way and public utility easements as actually installed and field verified by a Professional Engineer or a representative thereof. The drawing shall be identified as ""as-built drawings" in the title block of each drawing and shall be signed and dated by the owner of the development or the owner's

legal representative and shall bear the seal of a professional community planner, Engineer, Architect, Landscape Architect or Land Surveyor.

Sec. 14A-15. Phasing of Development.

The Applicant may divide the proposed development into two or more phases. In such case each phase-specific Site Plan shall cover only that portion of the property involved. A Final Site Plan shall be submitted for review and approval for each phase.

Sec. 14A-16. Inspection.

The Community Development Director or designee shall be responsible for inspecting all improvements for conformance with the approved Final Site Plan. All sub-grade improvements such as, utilities, sub-base installations for drives and parking lots, and similar improvements shall be inspected and approved by appropriate agencies prior to covering. The Applicant shall be responsible for requesting the necessary inspections. The Community Development Director shall obtain inspection assistance from the appropriate City Official and Consulting Professional personnel where appropriate.

Sec. 14A-17. Guarantees.

(a) Guarantees as required by the City shall be provided by the Applicant to the office of the City Treasurer. The Guarantee shall be provided after a Final Site Plan is approved; the Guarantee shall cover all aspects of site improvements shown on the approved Final Site Plan, including buildings, streets, drives, parking lots, sidewalks, grading, required landscaping, required screens, storm drainage, exterior lighting and utilities for a period of one (1) year after acceptance by the City.

(b) The Applicant shall provide a cost estimate of the improvements to be covered by the guarantee and such estimate shall be verified as to the amount by the City Engineer and/or Community Development Director. The form of the Guarantee must be approved by the City Attorney.

(c) If the Applicant shall fail to provide any site improvements according to the approved plans within the time period specified in the Guarantee, the City shall have the authority to have such work completed. The City Treasurer may reimburse the City for cost of such work, including administrative costs, by appropriating funds from the deposited security, or may require performance by the Bonding Company.

(d) The City Treasurer shall determine the means by rebating portions of the deposit in proportion to the amount of work completed on the required improvements. All required inspections for improvements for which the cash deposit is to be rebated shall have been completed before any rebate shall be made.

Sec. 14A-18. Fees.

Fees for the review of Site Plans and inspections as required by this Article shall be established and may be amended by Resolution of the City Commission.

Fees may also be assessed by the Planning Commission for the review of Site Plans and construction drawings by a qualified Engineering and/or Architectural Firm. Said fees will be placed in an escrow account with the City Treasurer, from which all reasonable and necessary amounts will be deducted (approved by the Planning Commission). Upon Final Approval of the Site Plan, all unused portions of the monies in escrow will be returned to the Applicant.

Sec. 14A-19. Enforcement.

(1) The Building Inspector shall not issue a building permit for any use requiring Site Plan approval until a Site Plan has been approved by the Planning Commission. The Building Inspector also reserves the right to issue a stop work order on any and all building projects (Fort Morgan Municipal Code).

(2) The Building Inspector shall not issue a Certificate of Occupancy until all site improvements shown on the Site Plan have been completed as verified by the Community Development Director or a financial guarantee for the improvements has been secured by the City in accordance with Section 14A-17.

Sec. 14A-20. Sketch Plans.

(1) The following uses, buildings and structures shall require only a sketch plan as approved by the Planning Commission:

(a) Farm buildings

(b) Building additions of twenty (20) percent or less of the existing building not to exceed five thousand (5,000) square feet for buildings requiring Site Plan approval, provided that no more than four additional parking spaces will be required or provided. Measurements shall be made based on gross floor area of the ground floor area.

(c) Building additions up to five thousand (5,000) square feet that do not modify any other site characteristics such as parking, traffic circulation and drainage.

(d) Multi-family dwellings containing three (3) to four (4) dwelling units.

(e) All parking lots or additions thereto containing five (5) or more spaces.

(2) The following information shall be provided on all sketch plans:

(a) Scale, north arrow, name and date of plan; dates of revisions thereto;

(b) Name and address of property owner and Applicant and the name and address of developer and designer;

(c) The Applicant's ownership interest in the property and, if the Applicant is not the fee simple owner, a signed authorization from the owner for the application;

(d) Legal description of the property, dimensions and lot area;

(e) Existing buildings, structures and other improvements with a clear indication of all improvements to remain and to be removed;

(f) Use and zoning classification of adjacent properties;

(g) Names and rights-of-way of existing streets, private roads and/or recorded easements on or adjacent to the property;

(h) Zoning classification of the subject property and total ground floor area.

(i) Location and exterior dimensions of proposed buildings and structures, with the location to be referenced to property lines; distances between buildings; height in feet and number of stories; and all required setbacks;

(j) Location and dimensions of proposed parking lots, numbers of spaces in each lot; dimensions of spaces and aisles; drainage pattern of lots; angle of spaces; and areas reserved for storage of snow;

(k) Location, type and size of other improvements such as sidewalks, fencing and screening, outdoor trash containers, signage and landscaping.

(l) Additional information may be required by the Community Development Director.

(3) No Public Hearing shall be required.

(4) The Planning Commission shall consult with appropriate City Officials (e.g. Building Inspector, City Engineer, and Public Safety Director) or Consulting Professional personnel where appropriate.

(5) If given the authority to approve sketch plans, the Community Development Director may refer the matter to the Planning Commission if in his/her opinion the Planning Commission should be consulted.

Sec. 14A-21. Violations.

The approved Site Plan shall become part of the record of approval; and subsequent action relative to the site in question shall be consistent with said approved Site Plan, unless the pertinent administrative body agrees to such changes as are provided for in this Article. Any violations of the provisions of this Article, including any improvement not in conformance with the approved Final Site Plan, shall be deemed a violation of this ordinance as provided in Section 14A-19, and subject to all penalties specified therein.

Sec. 14A-22. Delegation of Authority.

The Planning Commission may delegate in part or whole the powers and authority granted to the Planning Commission to the Community Development Director. Delegation of authority shall be done by Resolution passed by a majority vote of the entire Planning Commission Membership. The Planning Commission may at any time alter its delegation of authority by passage of a subsequent resolution.

APPROVE THE APPOINTMENT OF DR. PATRICK THOMPSON AS THE CITY OF FORT MORGAN HEALTH COMMISSIONER

Acting City Manager Kuretich explained how the previous *Charter* stated Council shall approve the Health Commissioner. The new *Charter* is silent on the subject of a health commissioner. He has reviewed this issue with the City Attorney who determined that the City Manager would make a recommendation to Council for appointment. He explained that the duties of the Health Commissioner are that they would be head of the Health Department which consists of the Mayor, Health Commissioner and a member of the City Council, and shall have management and control of all matters and things pertaining to the City Code and would be involved with any Order of Emergency Condemnation and Order to Vacate situation. Dr. Thompson has served in this capacity in past years. He is not requesting compensation; although depending on the amount of duties assigned, compensation should be left as allowed.

Councilmember Powers offered a motion to appoint Dr. Patrick Thompson as the City of Fort Morgan's Health Commissioner and to appoint an additional Councilmember to the Health Board at the next regular meeting. His motion was seconded by Councilmember Simmons. The motion carried unanimously.

DISCUSS AND/OR ACTION CONCERNING RETENTION OF CO-COUNSEL IN THE LITIGATION WITH *THE FORT MORGAN TIMES*

Attorney Wells said the parties have shared disclosures listing individuals likely to have discovery information. *The Fort Morgan Times* listed Attorney Wells as likely to have discoverable information, as well as several other members of Council and City employees. This means that there is a potential that they would call Attorney Wells as a witness. If they do,

there may be an ethical requirement for Attorney Wells to withdraw as the City's attorney prior to or during trial. He feels it should not be an issue for him to continue preparing for trial until that becomes necessary. He is asking for Council's approval to find co-counsel to help prepare for trial to take over in the event Attorney Wells becomes a necessary witness. There was discussion which included asking Attorney Wells for a list of potential candidates. Attorney Wells proposed the City use a firm that has worked with *The Fort Morgan Times*; that being Steven Dawes from Light Harrington & Dawes. He would charge the City CIRSA's rate of \$175 an hour for his services; \$150 an hour for an associate attorney's help, and \$80 an hour for any paralegal help.

Councilmember Simmons offered a Motion to direct the City Attorney to acquire the legal services to assist with *The Fort Morgan Times*' lawsuit. Councilmember Schafer seconded the motion and the motion carried unanimously.

CONSENT AGENDA

Deputy Clerk Winberg presented the Consent Agenda for Council consideration. Councilmember Simmons offered a Resolution to approve the Consent Agenda as presented and moved for its adoption. Her motion was seconded by Councilmember Schafer; said Consent Agenda being in words, letters and figures as follows, to wit:

CONSENT AGENDA:

- A. Approve the minutes from the March 18, 2008, regular meeting.
- B. Approve the retention of Armstrong Consultants as the engineering firm for the Fort Morgan Municipal Airport for a five-year contract effective April 1, 2008, with an automatic renewal on the anniversary date each year.
- C. Approve the bid submitted by Delta Oil Field for the purchase of Lot 6 in Industrial Park.
- D. Approve the revisions to the Bylaws of the Senior Center Advisory Board.
- E. Approve the revisions to the Bylaws of the Tree, Parks & Recreation Advisory Board.
- F. Authorize the Mayor to sign a Resolution Authorizing the Water Rates and Charges By and Between the City of Fort Morgan, Colorado, and Excel Corporation, dba Cargill Meat Solutions.
- G. Authorize the Mayor to sign a Mutual Aid Agreement and for the City to become a member of the Colorado Water/Wastewater Agency Response Network.
- H. Approve the reading of an Arbor Day Proclamation.

All matters listed under Item 9, 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.

PASSED, APPROVED AND ADOPTED this 1st day of April, 2008, the vote upon roll call being as follows: Ayes: Mayor Darnell; Councilmembers Deal, McAlister, Powers, Schafer, Shaver and Simmons. Nays: none.

READING OF AN ARBOR DAY PROCLAMATION

Mayor Darnell read the Arbor Day Proclamation.

ARBOR DAY PROCLAMATION

Whereas, in 1872, J. Sterling Morton proposes to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees, and

Whereas, this holiday, called Arbor Day, was first observed with the planting of more than a million trees in Nebraska, and

Whereas, Arbor Day is now observed throughout the nation and the world, and

Whereas, trees can reduce the erosion of our precious topsoil by wind and water, cut heating and cooling costs, moderate the temperature, clean the air, produce oxygen and provide wildlife habitat, and

Whereas, trees are a renewable resource giving us paper, wood for our homes, fuel for our fires and countless other wood products, and

Whereas, trees in our city increase property values, enhance the economic vitality of business areas, and beautify our community, and

Whereas, trees, wherever they are planted, are a source of joy and spiritual renewal,

NOW, THEREFORE, I, Jack L. Darnell, Mayor of the City of Fort Morgan, do hereby proclaim April 22, 2008 as:

ARBOR DAY

in the City of Fort Morgan, and I urge all citizens to celebrate Arbor Day and to support efforts to protect our trees and woodlands, and

Further, I urge all citizens to plant trees to gladden the heart and well being of this and future generations.

Dated: this 1st day of April, 2008

Jack L. Darnell
Mayor, City of Fort Morgan

PUBLIC COMMENT / AUDIENCE PARTICIPATION

None.

REPORTS

Acting City Manager Keith Kuretich reported that he has continued to attend many meetings, which are outlined in his report. He also announced that the City will be holding a meeting this Thursday, April 3rd, at the Senior Center at 110 Sherman Street, beginning at 6 p.m. This is a project that the City began talking with residents about in November 2007, when they held the first community meeting. There has been further review and cleanup since that time. He sent a letter to the Circle Drive residents asking them to attend the meeting.

City Attorney Jeff Wells reported that the City is moving forward with the lawsuit date requirements. Written discovery will go out by April 7th, they'll send us their questions; we send them ours. Depositions will start sometime around May 1st.

Utilities Director Weimer reported that with the assistance of Electric Superintendent Doug Linton, data was gathered and submitted concerning metering and demand response tariffs. He also reported that they are interviewing applicants for the apprentice lineman position. He also reported that they mailed 1,289 Reminder Notices totaling \$535,705.91, resulting in 219 arrangements and 175 shut-offs. He and staff met with vendors of paper and cleaning products and continue to proceed with Jack's Bean Building abatement project. Superintendents Breneman and Linton conducted a meeting with CDOT officials regarding concern over the condition of traffic signal lights on Highway 34 throughout the City.

Utilities Director Dreessen reported that they continue to look for the best CBT water price to purchase units and a new operator was hired at the Wastewater Treatment Plant and the Water Treatment Plant finished preventative maintenance on finished water storage tank #2. Departments jetted sewer mains at 907 Deuel, 820 Prospect and the 200 block of Prospect, and repaired a leak on the 4' service line at the Middle School. The Sanitation Department prepared for Spring Clean Up and hung an advertisement banner over Main Street.

Lt. Sagel reported that driving under the influence of alcohol, has become a growing concern of law enforcement. He stated that the Police Department applied for and received a LEAF (Law Enforcement Assistance Fund) grant which will enable them to increase the number of saturation patrols for DUI enforcement. He also reported on various training and community activities of the Police Department.

Community Development Director Pat Merrill reported that he walked the proposed Downtown Project area in order to determine size/quantity and estimates for a DOLA design grant. He also reported that he has revised the Sale of City-Owned Property Policy and have forwarded that to the City Manager and City Attorney for review.

Community Services Director Don Shedd reported that he is working on plans to remodel the front entrance of the Recreation Department (Armory) with new flowerpots and rearranging the existing handrail for better access. He also thanked Council for the Arbor Day proclamation and reported that the Senior Center is taking reservations for Colorado Rockies games with the first game on April 6 for \$25, which includes the ticket and transportation. The Community Connection is out and he hopes that everyone has seen it.

BIDS, MEETINGS AND ANNOUNCEMENTS

Deputy Clerk Winberg announced the Street Department is accepting bids for a single axle sand-salt plow truck. Bids will be accepted until 3:00 pm. on April 23, 2008.

Deputy Clerk Winberg announced upcoming meetings.

Director Dreessen encouraged everyone on Council to attend the Water Advisory Board Meeting. A NISP update will be discussed.

Mayor Darnell adjourned the April 1, 2008, regular meeting at 8:27 p.m.

Mayor

City Clerk