

Mayor Mary Cooper called the meeting to order at 7:00 p.m. Also present were Councilmembers Guy Pfalzgraff, Robert Jurca, Ed Sisson, and Bill Raley, along with City Manager Joe Kerby and City Attorney Mike Schottelkotte. A meeting notice was posted in the south window at City Hall at least twenty-four hours prior to the meeting.

Pledge of Allegiance

The Mayor led everyone present in the Pledge of Allegiance.

Changes to the Agenda

There were none.

Minutes

It was moved by Councilmember Jurca and seconded by Councilmember Sisson to approve the minutes of April 5, 2011 as submitted by the Clerk. All in favor, motion carried.

Citizen Comments

John Thomas, Larry Alderman, and Pete McFerrin spoke in favor of allowing Medical Marijuana Dispensaries in the City of Delta.

Recognition of Joe Chavira and Greg Birely

Police Chief Robert Thomas presented the Delta Police Department's *Life Saving Award* to Delta Police Sgt. Joe Chavira and Detective Greg Birely.

Chief Thomas explained that Sgt. Chavira and Detective Birely were instrumental in saving the life of a heart attack victim on January 25, 2011 when they responded to a call at 841 Main Street.

Chamber of Commerce Event Coordinator

City Manager Kerby recalled the discussion with members of the Chamber of Commerce at the April 5th Council meeting. The discussion continued with the Chamber Board at a work session earlier in the evening. He explained that as of today, he has not been able to come up with a solution to either the Chamber's funding request or to an earlier request by the Police Department for funding for two additional police officers. He stated that funding is unlikely to be available for either request unless monies are transferred from Enterprise Fund balances.

He asked for additional direction from Council concerning the Chamber's request, as to whether or not Council supports the request, and if so, at what level. He noted that the Chamber request is currently at the \$30,000 level.

Council asked Manager Kerby to look into alternatives to come up with up to \$2,500 as seed money for the block party project.

Referendum Petition Statement of Sufficiency

The Acting City Clerk stated that a petition referring Ordinance #1, 2011 to a vote of the electors was submitted on March 10, 2011. The petition contained 1325 signatures. She explained that upon examining the signatures, she found 909 of them to be valid and 416 to be invalid. Since the number of valid signatures required was 489, she found that a sufficient number of valid signatures had been submitted.

The Clerk reported that since no protest was filed within the forty day protest period provided for in CRS 31-11-110 (by the end of business on April 19, 2011), a final determination of sufficiency may now be made.

Regular Meeting, Delta City Council, April 19, 2011 (Cont.)

Reconsideration of Ordinance #1, 2011; Prohibiting Establishment and Operation of Certain Medical Marijuana Businesses

The Clerk explained that according to CRS 31-11-105(3), if a referendum petition is filed, the ordinance does not take effect. Then, upon final determination of petition sufficiency, the Council must promptly reconsider the ordinance.

The next step, then, is reconsideration of the ordinance. Council can either confirm or repeal Ordinance #1, 2011.

It was moved by Councilmember Raley and seconded by Councilmember Sisson to confirm Ordinance #1, 2011. Roll call vote: Councilmembers Pfalzgraff, aye; Jurca, aye; Sisson, aye; Raley, aye; and Cooper, aye. The motion carried, and Ordinance #1, 2011 was confirmed.

Resolution #2, 2011; Calling for a Special Municipal Election

Resolution #2, 2011

A RESOLUTION OF THE CITY OF DELTA, COLORADO
CALLING FOR A SPECIAL MUNICIPAL ELECTION;
AUTHORIZING SAID SPECIAL ELECTION TO BE CONDUCTED
BY MAIL BALLOT; AND FIXING THE BALLOT TITLE OF THE
REFERRED MEASURE

was read by the Clerk.

The Clerk stated that since Council has now confirmed Ordinance #1, 2011, staff recommends adoption of resolution #2, 2011, which will schedule the Special Election for July 12, 2011, authorize the election to be conducted by mail ballot, and fix the ballot title for the referred measure.

It was moved by Councilmember Jurca and seconded by Councilmember Sisson to adopt Resolution #2, 2011. Roll call vote: Councilmembers Pfalzgraff, aye; Jurca, aye; Sisson, aye; Raley, aye; and Cooper aye. Motion carried.

Resolution #3, 2011; Extending the Moratorium on Review of Applications for Medical Marijuana Dispensaries

Resolution #3, 2011

A RESOLUTION OF THE CITY OF DELTA, COLORADO,
EXTENDING THE MORATORIUM ON THE REVIEW OF
APPLICATIONS FOR MEDICAL MARIJUANA DISPENSARIES
WITHIN THE CITY OF DELTA PENDING THE OUTCOME OF A
REFERENDUM ELECTION SCHEDULED FOR JULY 12, 2011

was read by the Clerk.

Manager Kerby stated that staff recommends adoption of this resolution which will extend the moratorium on the review of applications for medical marijuana dispensaries for six months. He explained that the current moratorium, which expires on May 3, 2011, was extended by Ordinance #1, 2011. Since that ordinance will not take effect until and unless a majority of the voters approve it at the July 12th election, it is necessary to extend the moratorium by resolution. The City Attorney has advised extending it for another six months in order to allow for the adoption of necessary regulations should the voters decide against Ordinance #1, 2011.

It was moved by Councilmember Sisson and seconded by Councilmember Raley to adopt Resolution #3, 2011. Roll call vote: Councilmembers Pfalzgraff, aye; Jurca, aye; Sisson, aye; Raley, aye; and Cooper, aye.

Purchase Contract for Oest Trust Property

Brad Rodenberg, the City's Property Acquisition Consultant for the Confluence Drive Project, reported that the City needs a portion of this parcel at the southeast corner of Silver and Third Street for the project. The property owners have acquired the parcel, which is essentially unbuildable, through a tax sale. They have offered the entire parcel to the City for \$3,500.

Regular Meeting, Delta City Council, April 19, 2011 (Cont.)

Purchase Contract for Oest Trust Property (Cont.)

City Attorney Schottelkotte noted that even though this property acquisition falls within the dollar amount authorized by Council to be handled administratively, the contract itself contains a provision requiring Council approval. Thus, it is being presented for action by Council.

It was moved by Councilmember Pfalzgraff and seconded by Councilmember Sisson to approve the purchase contract for the Oest Trust property as presented. All in favor, motion carried.

3.2% Beer License Renewal Application: North Delta Market

The Clerk reported that a renewal application has been submitted for the North Delta Market's 3.2% beer license. The application is complete and the required fees have been paid. The Police Department reported no liquor code violations during the past year and recommended approval of the renewal.

It was moved by Councilmember Sisson and seconded by Councilmember Raley to approve the 3.2% beer license renewal for the North Delta Market. All in favor, motion carried.

Arbor Day Proclamation

The Mayor read a proclamation naming April 29, 2011 as Arbor Day.

City Attorney Comments

City Attorney Schottelkotte reported on the Simmons appeal.

The City Attorney stated that a conflict of interest issue which has already been raised relative to the truck route project has come up again. It has to do with Mayor Cooper's "in-law" relationship with members of the Triantos family who own real property impacted by the project. (Mayor Cooper's daughter is married to David Triantos.) The issue surfaced again in the context of the Relocation Assistance Policies recently adopted by Council and implemented by staff.

Attorney Schottelkotte first reiterated his previous opinion that, under Colorado law, no conflict of interest exists for the Mayor relative to the City's acquisition of property for the project from the Triantos Family Trust. He went on to explain that neither did a conflict of interest exist when the Mayor voted on adopting the Relocation Assistance Policies. These policies will be applied to the relocation of Triantos family members in the same manner as they will be applied to others affected by the project.

The City Attorney explained that the Mayor will receive no personal benefit from any payouts made under the policies, and the fact that her fully emancipated adult daughter may receive some incidental benefit from a payout to David Triantos creates no ethical conflict under existing legal definitions.

City Manager Comments

The City Manager stated that he would like clarification on two matters with regard to the truck route project. First, his understanding was that with the adoption of the Relocation Assistance Policies, as long as staff operated within the boundaries of the policies, there is no need to bring individual relocation payments to Council for approval.

The second matter involves contracts for small amounts, such as the one for \$3,500 approved by Council earlier in the evening. Council has authorized staff to approve purchases under a certain amount without having to bring them to Council. However, as the City Attorney indicated, the contract form itself contains a clause which indicates that the contract is not valid if it's not approved by the City Council.

The City Manager asked for guidance from Council concerning both matters. Council agreed that Council and staff should continue to follow the adopted policies.

The City Manager continued his comments on the following items:

- An Easter Egg Hunt will be held at the Rec Center this Saturday.
- The locker rooms and pool are closed this week for maintenance.

Regular Meeting, Delta City Council, April 19, 2011 (Cont.)

City Manager Comments (Cont.)

- The pond liner project at the golf course is 90% complete and should be done by the end of the week.
- The new food and beverage service at Devil's Thumb is up and running.
- The Delta High School Senior Class has requested a donation for their annual Grad Night celebration. Council authorized a donation of \$300.
- Mr. Kerby reminded Council of the Downtown Assessment Meeting at 6:00 p.m. on April 20 at the Rec Center.
- Business After Hours is scheduled for 5:30 p.m. on April 27 at the Elks Lodge.
- On May 11, Reeves Brown, the new director of the Department of Local Affairs will visit Delta, touring the truck route project and speaking at the Municipal Quarterly meeting.
- The City Manager reported on the public hearing held recently by the County Commissioners regarding the Tri-State transmission line.
- The Colorado Municipal League will hold their spring out-reach meeting in Montrose on May 18, 2011.

Councilmember Comments

Councilmember Jurca mentioned that he was the one who had raised a question concerning the Triantos relocation payment. He thanked the City Attorney for his explanation.

Councilmember Sisson reported participating in the recent 5K at the Recreation Center.

The meeting was adjourned at 8:15 p.m.

Mary Lynn Williams, CMC, City Clerk