

Mayor Mary Cooper called the meeting to order at 7:00 p.m. Also present were Councilmembers Bill Raley, Robert Jurca, Guy Pfalzgraff, and Ed Sisson, 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 Sisson and seconded by Councilmember Jurca to approve the minutes of February 7, 2012 as submitted by the Clerk. All in favor, motion carried.

**Citizen Comments**

There were none.

**Appointments to the Planning Commission Board**

Mayor Cooper reported that interviews were conducted during the work session for Planning Commission.

It was moved by Councilmember Raley and seconded by Councilmember Pfalzgraff to appoint Richard Simmons to a second term, Terry Osborne to a first term and Barry Singleton to a first term. All in favor, motion carried.

**Public Hearing: Special Events Permit Application  
Delta County Memorial Hospital Foundation**

The Mayor closed the regular meeting and convened a public hearing.

City Clerk Jolene Nelson explained that the Delta County Memorial Foundation has submitted a special events permit application for their annual fund raising event. The event is scheduled for February 25, 2012. Due to an unexpected family emergency of the Clerk, she stated the posting requirements would not have been for the last meeting. The posting requirements have been met for this hearing and no comments have been received. She also stated the application is complete and all fees have been paid. The State has been contacted to expedite approval as quickly as possible.

The Mayor called for public comment and when there was none she closed the public hearing and reconvened the regular meeting.

It was moved by Councilmember Pfalzgraff and seconded by Councilmember Sisson to approve the Delta County Memorial Hospital Foundation's special events liquor permit for February 25, 2012. All in favor, motion carried.

**Public Hearing: Special Events Permit Application  
Delta Ducks Unlimited**

The Mayor closed the regular meeting and convened a public hearing.

Clerk Nelson reported that Delta Ducks Unlimited, Inc. has also submitted a special events permit application for their annual fund raising event that is scheduled for March 3, 2012. The application is complete and all fees have been paid. Posting of this meeting has been met as requirement by law and no comments have been

The Mayor called for public comment and when there was none she closed the public hearing and reconvened the regular meeting.

**Regular Meeting, Delta City Council, February 21, 2012 (Cont.)**

**Public Hearing: Special Events Permit Application  
Delta Ducks Unlimited (cont.)**

It was moved by Councilmember Jurca and seconded by Councilmember Raley to approve Ducks Unlimited, Inc.'s application for a special events liquor permit for March 3, 2012. All in favor, motion carried.

**Bids for Pool Resurfacing**

Assistant Recreation Director Renee Ealey stated that this contract will get the pools resurfaced at the recreation center. The last time the pools were resurfaced was in 2000 and it is now time to have them redone. Staff researched various companies and followed the recommendation that was put in the RFP.

Ms. Ealey explained that five bids were received. Two of the bids did not meet the minimum requirements for this project and one was submitted past the deadline; therefore staff reviewed the two remaining bids. Ms. Ealey outlined each bid. She also explained the bids included bringing the VGB drains within code. Staff recommends awarding the bid to High Country Pools & Spas with an amount not to exceed \$153,130.

Councilmember Jurca questioned the significant difference in the bids and if there were any concerns in the work being completed.

Ms. Ealey reported that staff is not concerned after looking at the portfolio and receiving a recommendation from Barker, Rinker Seacat the master plan company staff is working with. Staff also contacted their references and received favorable responses.

Councilmember Jurca also questioned what a VGB drain is.

Ms. Ealey explained that are drain covers to keep entrapment from happening at the bottom of the pool. The current drain does not meet the requirements and this will upgrade the drain to meet those requirements.

City Manager Kerby recommended amending the motion that is suggested in their packets if Council were to award the contract to reflect awarding to High Country Pools & Spas and authorize the City Manager to sign the contract.

It was moved by Councilmember Sisson and seconded by Councilmember Raley that the Bill Heddles Recreation Center's pool resurfacing project be awarded to High Country Pools & Spas from Fort Collins, Colorado in the amount of \$153,130 and authorize the City Manager to sign said contract All in favor, motion carried.

**Resolution #4, 2012; GOCO Planning Grant**

Resolution #4, 2012

A RESOLUTION OF THE CITY OF DELTA, COLORADO  
SUPPORTING THE GRANT APPLICATION FOR A LOCAL  
GOVERNMENTAL PLANNING GRANT FROM THE STATE  
BOARD OF THE GREAT OUTDOORS COLORADO FOR THE  
GUNNISON RIVER MASTER PLAN

was read by the Clerk.

Parks Director Paul Suppes stated that staff has been working on a grant application with Third Sector Innovations for a planning grant. The grant is requesting fund in the amount of \$75,000 with a match from the City of \$35,000. This would allow getting a consultant on board to develop a future plan with the trail system as well as the rivers. The application is almost complete. This resolution is a requirement from GOCO when submitting the grant application.

Manager Kerby also stated that there are two note-worthy items that have happened over the last year one being the completion of the Hartland Dam Project which allows passage for rafters as well as the fish ladder; the other being the purchase of River Bend Park. River Bend Park is now part to the City's park portfolio which gives the City immediate river access. Staff is working on what that means. GOCO likes to see a planning study as part of the process to gain

**Regular Meeting, Delta City Council, February 21, 2012 (Cont.)**

**Resolution #4, 2012; GOCO Planning Grant (cont.)**

funds from the grant cycles. He also reminded Council of the tour of Buena Vista and how GOCO helped fund that project.

Councilmember Raley questioned if this would be budgeted in 2012.

Mr. Suppes explained that there are reserve funds in the conservation trust funds that could be used for this project. However, staff will be looking at budgeting funds in 2013 due to the timeline of receiving the grant.

It was moved by Councilmember Pfalzgraff and seconded by Councilmember Sisson to adopt Resolution #4, 2012. Roll call vote: Councilmembers Jurca, aye; Sisson, aye; Pfalzgraff, aye; Raley, aye and Cooper, aye. Motion carried.

**Council Bill #5, 2012; First Reading  
Power of Condemnation**

Council Bill #5, 2012

AN ORDINANCE OF THE CITY OF DELTA, COLORADO TO  
ADD CHAPTER 1.12 TO THE DELTA MUNICIPAL CODE  
ESTABLISHING THE PROCEDURE FOR AUTHORIZING  
EXERCISE OF THE CITY'S POWER OF CONDEMNATION  
(EMINENT DOMAIN).

was read by the Clerk.

City Attorney Michael Schottelkotte stated that while working with staff on the truck route he assumed that Council had the power to authorize condemnation by resolution. The City's Charter reads that all powers of the City shall be exercised in the manner prescribed by this Charter or if the manner is not prescribed then in such a manner prescribed by ordinance. The manner is not specifically prescribed by the Charter. Therefore, he prepared a procedure to help the process for all future condemnations being authorized by a resolution.

Mr. Schottelkotte addressed Council Bill #4, 2012 and the need to move it to an emergency ordinance.

Councilmember Jurca questioned how other municipalities handle condemnations.

Mr. Schottelkotte stated that he talked with John Kappa and reported that Mr. Kappa was surprised the City didn't have a condemnation procedure. He stated that he does not have any information of other municipalities.

Councilmember Pfalzgraff stated that this would just be streamlining the process.

Mr. Schottelkotte agreed.

Manager Kerby reported that the ordinance honors what the City's Charter reflects as well as state statute.

There was discussion regarding what the state statute requirements are.

It was moved by Councilmember Pfalzgraff and seconded by Councilmember Sisson to adopt Council Bill #5, 2012 on first reading. Roll call vote: Councilmembers Jurca aye; Sisson, aye; Pfalzgraff, aye; Raley, aye and Cooper, aye. Motion carried

**Ordinance #2, 2012; Second and Final Reading  
Vacating Segments of Third Street and Silver Street**

Ordinance #2, 2012

AN ORDINANCE OF THE CITY OF DELTA, COLORADO,  
VACATING SEGMENTS OF THIRD STREET AND SILVER  
STREET IN THE CITY LIMITS

**Regular Meeting, Delta City Council, February 21, 2012 (Cont.)**

**Ordinance #2, 2012 (cont.)**

was introduced as Council Bill #2, 2012 and read by the Clerk.

Public Works Director Jim Hatheway stated this is a contractual agreement with High Quality Packing, Inc.

It was moved by Councilmember Jurca and seconded by Councilmember Sisson to adopt Council Bill #2, 2012 on second and final reading. Roll call vote: Councilmembers Jurca, aye; Sisson, aye; Pfalzgraff, aye; Raley, aye and Cooper, aye. Motion carried. Council Bill #2, 2012 was adopted on second and final reading as Ordinance #2, 2012.

**Ordinance #3, 2012; Second and Final Reading**  
**Conveyance of a Parcel of the City Property to High Quality Packing, Inc.**

Ordinance #3, 2012

AN ORDINANCE OF THE CITY OF DELTA, COLORADO  
AUTHORIZING CONVEYANCE OF A PARCEL OF ITS  
PROPERTY IN BLOCK 39, PLAT C OF THE DELTA TOWNSITE  
TO HIGH QUALITY PACKING, INC.

was introduced as Council Bill #3, 2012 and read by the Clerk.

Director Hatheway again stated this is a contractual agreement with High Quality Packing, Inc.

It was moved by Councilmember Sisson and seconded by Councilmember Jurca to adopt Council Bill #3, 2012 on second and final reading. Roll call vote: Councilmembers Jurca aye; Sisson, aye; Pfalzgraff, aye; Raley, aye and Cooper, aye. Motion carried. Council Bill #3, 2012 was adopted on second and final reading as Ordinance #3, 2012.

**Council Bill #4, 2012; Second and Final Reading**  
**Condemnation of Family Household Trust Property**

Council Bill #4, 2012

AN ORDINANCE OF THE CITY OF DELTA AUTHORIZING THE  
ACQUISITION OF CERTAIN REAL PROPERTY AND RELATED  
RIGHTS FROM FAMILY HOUSEHOLD TRUST FOR THE  
CONFLUENCE DRIVE PROJECT AND DECLARING AN  
EMERGENCY

was read by the Clerk.

Director Hatheway stated that they have tried to contact the representative for Family Household Trust and there has been no response. At this time, the City needs to proceed forward with condemnation.

Councilmember Jurca questioned why Council was not approached about changing the ordinance to be an emergency.

Councilmember Pfalzgraff stated that he recommended it at the last meeting.

Councilmember Jurca stated that he does not see this as an emergency. The City has dragged their feet and now trying to cover their tracks.

Mayor Cooper commented that staff has tried to negotiate.

Councilmember Pfalzgraff stated that to get this done in a timely manner he feels it is an emergency.

Attorney Schottelkotte reported that emergency ordinances are declared in the most common situations. He shares the philosophy of not generating emergency ordinances commonly. In this case he believes it to be materially strong based on the City moving forward to get a contract with SEMA. He can't recommend signing the contract without knowing what is going to happen with this property.

## **Regular Meeting, Delta City Council, February 21, 2012 (Cont.)**

### **Council Bill #4, 2012; Second and Final Reading (cont.)**

There was discussion regarding the contract and the two different phases.

Additionally, there was discussion regarding the process and timelines with the condemnation process.

Councilmember Raley stated that the City is not being unfair to proceed with the emergency ordinance.

Attorney Schottelkotte commented that if there was ever a time for one this is it.

Councilmember Jurca disagreed stating that this should have been done with a higher regard. He will not support the ordinance as an emergency.

Manager Kerby updated Council on the challenges staff is currently facing other than the acquisition of this property.

Director Hatheway reported that the staff is currently working on the railroad exchange agreement.

Councilmember Raley stated that there are different types of emergencies and you can't lump them all together.

City Council discussed with the Attorney the process for condemnation and the timelines that will affect the notice to proceed date.

Manager Kerby suggested Council considering tabling the item until after the executive session. He explained there might be some information that will be useful in determining how they wish to go forward with the ordinance.

It was moved by Councilmember Pfalzgraff and seconded by Councilmember Raley to table Council Bill #4, 2012 until after the Executive Session. All in favor, motion carried.

### **City Attorney Comments**

Attorney Schottelkotte stated that a resolution has been reached with the Delta Center water bill.

### **City Manager Comments**

Manager Kerby commented on the following items:

- The Citizen's Financial Task Force will begin meeting on March 8<sup>th</sup>.
- At the March 6<sup>th</sup> meeting, Finance Director Tod Dezeeuw will be presenting the 2011 financial update.
- The community garden meeting was held last week. The next meeting will be March 1<sup>st</sup>.
- Colorado Canyon's Association will be holding their board meeting next Tuesday at Devil's Thumb Golf Course.
- There was vandalism at Mountain View and Cleland Parks.
- Paul Suppes has been nominated for Chamber volunteer of the year.
- Chamber banquet will be on March 10<sup>th</sup>.
- Base paint will be put on the mural at the power plant sometime next week. The artist will be starting within the next two weeks.
- Staff is working with Maverick who has purchased the property at 1<sup>st</sup> and Main to put a mural on that building.
- At the next work session staff will be presenting the salary survey.
- Staff will be attending a meeting Thursday morning with the County regarding their long terms plans for their campus.
- Ron Bell has submitted a letter regarding code enforcement concerns.
- A liaison from Council needs to be appointed for the facility energy analysis to replace Councilmember Pfalzgraff. Councilmember Sisson volunteered.
- The Delta County Housing Task Force also needs to have a Councilmember appointed to that board. Councilmember Raley volunteered to continue.

## **Regular Meeting, Delta City Council, February 21, 2012 (Cont.)**

### **Councilmember Comments**

Councilmember Jurca questioned the list of individuals that are on the financial task force.

Manager Kerby stated that he is continuing to work on the list. He will bring the information to Council once it is completed.

Councilmember Sisson commented on the high school basketball teams. He encouraged everyone to support these teams as they move to the playoffs.

Councilmember Pfalzgraff reported on the Pro Cycle Challenge.

Manager Kerby stated that there will be a presentation for Council in the near future.

Attorney Schottelkotte stated that before Council moves into executive session he wanted to advise them that they cannot discuss Council Bill #4, 2012. If Council chooses to discuss the mention Council Bill they need to include it in the motion to go into executive session. He suggested adding the language regarding attorney/client privilege should they choose to do so.

### **Executive Session**

It was moved by Councilmember Sisson and seconded by Councilmember Pfalzgraff to convene an 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 CRS Section 24-6-402(4)(e); and also for a conference with the City Attorney for the purpose of receiving legal advice on specific legal questions under CRS Section 24-6-402(4)(b); or more specifically for discussions regarding Confluence Drive.

At 7:52 p.m., Mayor Cooper recessed the Regular Meeting and convened the Executive Session.

At 8:40 p.m., the Mayor reconvened the Regular Meeting and announced that the Executive Session had been concluded. She stated that in addition to herself, the participants in the Executive Session were Councilmembers Robert Jurca, Bill Raley, Guy Pfalzgraff and Ed Sisson; along with City Manager Joe Kerby, City Attorney Michael Schottelkotte, Public Works Director Jim Hatheway and Brad Rodenburg. For the record, the Mayor asked any person participating in the Executive Session who believed that any substantial discussion of any matters not included in the motion to go into Executive Session occurred during the Executive Session in violation of the Open Meetings Law, to state his or her concerns for the record. No concerns were stated

### **Ordinance #4, 2012; Second and Final Reading Condemnation of Family Household Trust Property**

Council Bill #4, 2012

AN ORDINANCE OF THE CITY OF DELTA AUTHORIZING THE ACQUISITION OF CERTAIN REAL PROPERTY AND RELATED RIGHTS FROM FAMILY HOUSEHOLD TRUST FOR THE CONFLUENCE DRIVE PROJECT AND DECLARING AN EMERGENCY

was introduced as Council Bill #4, 2012 and read by the Clerk.

Attorney Schottelkotte summarized Council's options with this ordinance.

There was discussion regarding rejecting the ordinance as an emergency and amending the ordinance for second reading.

Additionally, there was discussion regarding the amendments of the ordinance since first reading.

It was clear that the emergency ordinance is not unanimously agreed upon.

**Regular Meeting, Delta City Council, February 21, 2012 (Cont.)**

**Council Bill #4, 2012; Second and Final Reading (cont.)**

Attorney Schottelkotte suggested a motion amending the ordinance as follows:

- Amended Council Bill #4, 2012 be adopted on second and final reading without referencing in the title to declaring an emergency, without the final whereas paragraph on page 2 referring to circumstances of emergency, without paragraph four in the actual body of the ordinance on the bottom of page 2 which declares the emergency and with adequate amendment of the capitalized language on page 3 of the council bill making reference to an emergency being declared.

It was moved by Councilmember Jurca and seconded by Councilmember Sisson to adopt Council Bill #4, 2012 on second and final reading as suggested by City Attorney Michael Schottelkotte. Roll call vote: Councilmembers Jurca, aye; Sisson, aye; Pfalzgraff, aye; Raley, aye and Cooper, aye. Motion carried

The meeting was adjourned at 8:47 p.m.

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Jolene E. Nelson, City Clerk