

Mayor Ed Sisson called the meeting to order at 7:00 p.m. Also present were Councilmembers Bill Raley, Robert Jurca, Mary Cooper, and Ray Penick along with Interim City Manager Glen Black and City Attorney David McConaughy. 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 Penick and seconded by Councilmember Jurca to approve the minutes of the May 5, 2015 regular meeting and the May 12, 2015 special meeting as submitted by the Clerk. All in favor, motion carried.

**Citizen Comments**

There were none.

**Public Hearing: Zoning Amendment/Rezone Request for Lots 19-26, Block 7 Town of Delta (632, 640 & 654 Main Street; two of the parcels are not addressed) from B-1 to B-2**

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

City Clerk Jolene Nelson reported that all proper notices were met.

Interim City Manager Glen Black stated that applicant is requesting that the above property's zoning designation be amended (rezoned) from B-1 to B-2. The B-2 zone is intended for a large variety of uses to conveniently serve customers. According to section 17.04.270 of the Delta Municipal Code, amendments to the Zoning Map involving any change in the boundaries of an existing district or changing the district designation of an area shall be allowed only upon findings as follows:

1. The amendment is not adverse to the public health, safety, and welfare; and
2. a. The amendment is in substantial conformity with the Master Plan; or  
b. The existing zoning is erroneous; or  
c. Conditions in the area affected or adjacent areas have changed materially since the area was last zoned.

The future land use map shows the area on the east side of Main Street from the 100 Block to 7th Street as B-1. The Master Comprehensive Plan states that the Desired Future Condition as "Growth and development are managed to preserve and enhance the quality of life that makes Delta an attractive place to live and visit. The downtown core is revitalized as a walk able village

**Regular Meeting, Delta City Council, May 19, 2015 (cont.)**

**Public Hearing: Zoning Amendment/Rezone Request for Lots 19-26, Block 7 Town of Delta (632, 640 & 654 Main Street; two of the parcels are not addressed) from B-1 to B-2 (cont.)**

center with a well designed mix of residential and commercial uses that serve both residents and visitors. Edges of the community are clearly defined by surrounding agricultural land and future growth is concentrated within the present City boundaries.” Policy 4 from the Master Comprehensive Plan states “Downtown should become a mixed use area with single family and multifamily residences, offices and retail establishments that serve the needs of residents and tourists.” Policy 5 from the Master Comprehensive Plan states “Improve the appearance of downtown.”

Manager Black presented some slides showing the B-1 and B-2 districts in the area.

Manager Black also stated that there were 13 petitions mailed out (including to the applicant) and currently there have been 6 petitions turned in approving of the rezone (including the applicant), 2 objecting to the rezone.

Councilmember Penick questioned what the date was when it was last zoned.

Manager Black stated he believes it was done with the 1999 legislative rezone.

Councilmember Jurca questioned if this could be considered spot zoning if approved.

City Attorney David McConaughy stated that procedurally if it meets the criteria to rezone, there would not be an issue regarding spot zoning because it is adjacent to both districts.

Councilmember Raley questioned what the zoning was before the rezone in 1999.

Manager Black stated his is unaware of what it was previously zoned.

Councilmember Cooper questioned if staff could explain the legislative rezone.

Manager Black explained that back in 1999 Council updated the zoning map under a legislative rezone. The current zone districts and the residential that surround downtown where set at that time.

There was additional discussion regarding the legislative rezone and the new zone districts.

Councilmember Penick questioned what the difference of the B-1 and B-2 zones.

Attorney McConaughy presented Council a copy of the code outlining both districts.

Councilmember Jurca requested clarification of the criteria to rezone.

Manager Black summarized the criteria.

Councilmember Cooper questioned if the Master Plan defines the core downtown area.

**Regular Meeting, Delta City Council, May 19, 2015 (cont.)**

**Public Hearing: Zoning Amendment/Rezone Request for Lots 19-26, Block 7 Town of Delta (632, 640 & 654 Main Street; two of the parcels are not addressed) from B-1 to B-2 (cont.)**

Manager Black stated that the future land use map left the downtown district exactly as it was. The downtown area is from 100 Block of Main to 7<sup>th</sup> Street.

The Mayor requested the applicant for his presentation.

Orval Proctor stated that to answer some of the questions regarding the rezoning. He tried to do some research to see how it was zoned before. He was concerned how Consolidated Finance opened a car lot in 1997 and continued to operate until 2012. There was no variance to operate the car lot. He stated that in the 1960s the old City Market parking lot extended to Main Street which was zoned B-2. It was a shame that West Star purchased all those lots along Main Street and tore out the buildings to build a new bank and never did. He stated that when he inquired about the property it was being advertised as a B-2 district so he didn't believe he would have a problem conducting his car business on those lots.

Mr. Proctor presented information regarding how he would like to improve the lots he is requesting to be rezoned.

Mayor Sisson questioned if he would have purchased the property had he known the lots were zoned B-1.

Mr. Proctor stated he really doesn't know if he would have or not. The lots have not been improved for several years. He stated that everyone would like to have a new business build something on the lots; however, if you look up and down Main Street you see several vacant buildings and he feels it is a pretty slim chance that would happen. Mr. Proctor stated that the lots are all within 100 feet of other properties that are zoned B-2. He is not looking at licensing the property as a car lot. He just wants the ability to display his cars. There are several individuals that enjoy looking at the collectible cars. He believes that tourists remember the flowers and the collectible cars.

Councilmember Raley questioned if Mr. Proctor was going to put a fence up along Main Street.

Mr. Proctor stated he was not. He reported that he parked his 2 ton truck and a 1970 Ford over on the lots to start cleaning up some of the trash. He also parked a tractor and forklift to help with the cleaning. He then received a letter from the City regarding parking unlicensed vehicles on the lots.

Attorney McConaughy cautioned Council that the nuisance citation is not at issue tonight.

Mr. Proctor stated that he does plan to install a 6 foot fence along the alley.

Hillary Showalter, 1150 E. 7<sup>th</sup> Street, stated that she has been a resident of the City for 23 years. She is aware of the rezone from Mr. O'Clair as well as seeing it in the paper. These issues are mostly from a citizen's point of view. She is hopeful that since she is a citizen in the city that she has some say. Her short term concerns are for George O'Clair he would see a decline in his property values. His property serves a dual purpose as his home and his

**Regular Meeting, Delta City Council, May 19, 2015 (cont.)**

**Public Hearing: Zoning Amendment/Rezone Request for Lots 19-26, Block 7 Town of Delta (632, 640 & 654 Main Street; two of the parcels are not addressed) from B-1 to B-2 (cont.)**

business. His view will be only of cars. She stated that most of the friends she has talked with about this property, they are either indifferent or don't want to see another car lot of that sort on Main Street. She is personally opposed to seeing that type of car lot on Main Street. The main concerns for Mr. O'Clair are for his property value, at some point he will need to sale his property and she is concerned that his particular property could be destroyed as well. This would affect the sale. What would prevent Mr. Proctor from purchasing Mr. O'Clair's property at a devalued price and tearing that building down to extend that car lot? She stated she would request Council to consider what would be attractive on Main Street.

Councilmember Penick questioned if Ms. Showalter has any documentation showing the property would lose value.

Ms. Showalter stated she does not have any documentation; however, she is aware that Mr. O'Clair has spoken with three different realtors.

Marvin Cox, 1140 Howard Street, stated that he was born and raised in Delta. There is a concern about getting access for the apartments behind the property; however, there would be nothing different than when there were homes there. He believes he will be able to work with Mr. Proctor to ensure there would be no issues. The vacant lot is now detractive. He believes others will be attracted to the cars that Mr. Proctor would put on the lot. He has no objection to the rezone. As he remarked in the response that he sent it, it certainly won't be a whole lot different than the area in front of Sisson's Feed and Ranch.

George O'Clair, 660 Main Street, adjacent property owner to the property in question, apologized for his exit at the last meeting. He explained why he was upset. He felt he had no chance. He commented on tourists coming to town that photograph thousands of different things not just the old cars. The other property owners will not be able to see the property like he does. He reminded Council of the antique mint condition automobiles that were given to the City; however the City didn't have the money to house them so they went to Gateway.

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

Councilmember Penick stated that there are two criteria that have to be met. He doesn't believe the existing zoning is erroneous. He struggles with whether the substantial conformity of the Master Plan and also with whether the conditions have materially been changed. One of the two has to be met in order to approve the rezone.

Councilmember Cooper stated that the City did substantially change the vision of that block when the houses were removed.

Councilmember Jurca agreed with Councilmember Cooper.

Mayor Sisson questioned when the houses were removed.

**Regular Meeting, Delta City Council, May 19, 2015 (cont.)**

**Public Hearing: Zoning Amendment/Rezone Request for Lots 19-26, Block 7 Town of Delta (632, 640 & 654 Main Street; two of the parcels are not addressed) from B-1 to B-2 (cont.)**

Attorney McConaughy stated that there was testimony that stated it was 1999.

Councilmember Cooper stated that it appears the main objection is about the beauty of Main Street; however, there is a lot just like it across the street. The objection to the property values is just an opinion; there was no evidence to support the objection. There were 13 letters sent out to adjacent property owners and only 2 objected.

Councilmember Raley stated that Council should be careful on how things are changed because once you change it you live with it. He has no objection to what Mr. Proctor wants to do with the property; however, he is very apprehensive with zoning changes.

Councilmember Cooper reported that when North Delta was annexed there was discussion regarding zoning being contiguous; we've got the contiguous property in this request.

Councilmember Penick stated that Council should not be basing the decision on what the applicant is proposing to do with the property. The decision needs to be made on what is best for the City and not what is being proposed for use of the property.

Councilmember Cooper stated that's not what she looking at. The continuity of the zoning in the area she believes will be met.

Councilmember Jurca stated that he is struggling with this property being in the core of the downtown area although the Master Plan lines that out. He does like that there is some continuity.

Councilmember Penick stated that continuity is not one of the criteria that have to be met in order to approve the rezone.

Attorney McConaughy stated that what the Council is reading are the factors in the code to change zoning. The zoning has to be rational. He believes either district would be rational.

Councilmember Penick explained why he struggles whether it is in substantial conformity of the Master Plan.

Councilmember Raley stated that the conditions of the area have changed once they tore the down the houses.

Councilmember Cooper also stated that if someone wants to build on the lot they would have to follow the building regulations.

Mayor Sisson stated that the lot is bare now and he would like to see something done with it.

It was moved by Councilmember Cooper and seconded by Councilmember Raley to approve the zoning change for the above listed property from B-1 to B-2.

**Regular Meeting, Delta City Council, May 19, 2015 (cont.)**

**Public Hearing: Zoning Amendment/Rezone Request for Lots 19-26, Block 7 Town of Delta (632, 640 & 654 Main Street; two of the parcels are not addressed) from B-1 to B-2 (cont.)**

Councilmember Penick questioned which item under criteria #2 are being met.

Councilmember Cooper stated it is under C – the conditions have changed and because there is continuity. She believes it is a more reasonable change.

The Mayor requested a roll call vote.

Roll call vote: Councilmember Cooper, aye; Raley, aye; Jurca, aye; Penick, aye and Sisson, aye. Motion carried.

**Public Hearing: Special Events Permit Application; Delta Lion's Club**

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

The Clerk stated that the Delta Lion's Club submitted a Special Events Permit application for their fund raising event being held at Cleland Park Riley Pavilion on August 15, 2015 from 3:00pm to 8:00pm. The application is complete and all fees have been paid. A sign was posted at the site as required by law and no comments have been received.

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

It was moved by Councilmember Penick and seconded by Councilmember Jurca to approve the special events permit application for the Delta Lion's Club on August 15, 2015. All in favor, motion carried.

**Public Hearing: Special Events Permit Application; Western Colorado Interpretive Association**

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

The Clerk reported that the Western Colorado Interpretive Association submitted a Special Events Permit application for their open house at Fort Uncompaghre on June 12, 2015 from 4:30pm to 9:00pm. The application is complete and all fees have been paid. A sign was posted at the site as required by law and no comments have been received.

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

It was moved by Councilmember Penick and seconded by Councilmember Raley to approve the special events permit application for the Western Colorado Interpretive Association on June 12, 2015. All in favor, motion carried.

### **Regular Meeting, Delta City Council, May 19, 2015 (cont.)**

#### **3.2% On Premises Beer License Renewal; Pizza Hut**

The Clerk stated that Pizza Hut has submitted their 3.2% On Premises Beer License. The application is complete and all fees have been paid. The police department is recommending renewal.

It was moved by Councilmember Cooper and seconded by Councilmember Jurca to approve the 3.2% On Premises Beer License for Pizza Hut. All in favor, motion carried.

#### **Hotel/Restaurant Liquor License Renewal and Report of Changes; Gerhard's**

The Clerk stated that Gerhard's has submitted their Hotel/Restaurant Liquor License renewal as well as a Report of Changes. The Report of Changes indicates that the manager of the restaurant will be solely the owner Ernst Schopp. The renewal application is complete and all fees have been paid. The police department is recommending renewal.

It was moved by Councilmember Jurca and seconded by Councilmember Raley to approve the Report of Changes and the Hotel/Restaurant Liquor License Renewal for Gerhard's. All in favor, motion carried.

#### **Street Closure Permits; Delta Area Chamber of Commerce**

##### **Deltarado Days Street Dance; July 17, 2015**

##### **Deltarado Days Parade; July 18, 2015**

##### **Downtown Deltafest; June 11, August 13 and September 10, 2015**

The Clerk summarized the applications for street closures that have been submitted by the Delta Area Chamber of Commerce for their upcoming events.

Councilmember Penick questioned the parade application only being to 4<sup>th</sup> Street.

The Clerk explained that the parade will go to 2<sup>nd</sup> Street.

It was moved by Councilmember Penick and seconded by Councilmember Jurca to approve the street closure permits for the Chamber of Commerce as presented. All in favor, motion carried.

#### **Appointment of Richard Simmons to the Planning Commission**

Interim City Manager Glen Black stated that staff has been advertising for several months to get some applicants for the Planning Commission. Council may recall that Richard Simmons had applied; however, he was term limited at that time. There are currently two vacancies. Staff at this time would recommend Council to appoint Mr. Simmons to the Planning Commission.

Councilmember Jurca stated that although he likes term limits, the City Charter states there must be a Planning Commission and there has been no additional interest, Mr. Simmons should be appointed.

It was moved by Councilmember Jurca and seconded by Councilmember Penick to appoint Richard Simmons to the Planning Commission. All in favor, motion carried.

## **Regular Meeting, Delta City Council, May 19, 2015 (cont.)**

### **Letter of Support for the Delta Housing Authority**

Ute Jantz, Executive Director of Delta Housing Authority (DHA), explained that DHA is submitting their annual grant to the Department of Local Affairs and is requesting a letter of support from the City of Delta.

There was discussion regarding the program. The City has budgeted \$1000 towards the program.

It was moved by Councilmember Penick and seconded by Councilmember Raley to authorize the letter of support for the Delta Housing Authority's grant to the Department of Local Affairs. All in favor, motion carried.

### **City Attorney Comments**

Attorney McConaughy stated that he has not had any progress with Stantec. He has drafted a letter of complaint to send to Stantec. He questioned Council if they had any objection to the letter.

There was consensus amongst Council to send the letter of complaint.

### **City Manager Comments**

Manager Black reported that he has been attending the Delta County Economic Development meetings which have been focusing on a strategic plan. This is a very energetic board that will be focusing on broadband, soil health program and with the Better Cities with the EDA grant.

### **Councilmember Comments**

Councilmember Raley stated that he will be at the meetings in June due to medical reasons.

Councilmember Penick commented on the weeds coming into town on Hwy 92. He questioned who is responsible for trees in right of ways.

Manager Black stated that typically it is the property owner.

Councilmember Penick questioned if the City is planning on participating with CML's city fest to get some information out to our community.

Councilmember Cooper suggested tying it into the September City Fest event the Chamber is hosting on Main Street.

### **Executive Session**

It was moved by Councilmember Cooper and seconded by Councilmember Jurca to convene an Executive Session for discussion of a personnel matter under CRS 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

**Regular Meeting, Delta City Council, May 19, 2015 (cont.)**

**Executive Session (cont.)**

discussion of matters personal to particular employees. All in favor, motion carried.

At 8:14 p.m., Mayor Sisson recessed the Regular Meeting and convened the Executive Session.

At 8:39 p.m., the Mayor reconvened the Regular Meeting and announced that the Executive Session had been concluded. He stated that in addition to himself, the participants in the Executive Session were Councilmembers Mary Cooper, Robert Jurca, Ray Penick and Bill Raley, as well as Interim City Manager Glen Black and one City Manager candidate via Skype. 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.

The meeting was immediately adjourned.

---

Jolene E. Nelson, CMC, City Clerk