



Council may take formal action on any item appearing on this Agenda. However, formal action WILL NOT be taken at this meeting on any item of business first identified during the course of the meeting as a change to the Agenda, other business, or Citizen, Councilmember and Staff Comments.

A G E N D A

**Delta City Council
Regular Meeting**

**July 21, 2015
7:00 p.m.**

- A. Pledge of Allegiance**
- B. Changes to the Agenda**
- C. Minutes**
- D. Citizen Comments**
- E. Approval to Participate in the November 2015 Election; Senate Bill 152**
- F. Purchase Agreement for 602 W. 4th Street**
- G. 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 discussion of matters personal to particular employees.
- H. Appointment of City Manager**
- I. . City Attorney Comments**
- J. City Manager Comments**
- K. Councilmember Comments**

Item A:

Pledge of Allegiance



Item B:

Changes to the Agenda

Mayor Ed Sisson called the meeting to order at 7:45 a.m. Also present were Councilmembers Robert Jurca, Mary Cooper, and Ray Penick along with Interim City Manager Glen Black. A meeting notice was posted in the south window at City Hall at least twenty-four hours prior to the meeting.

City Manager Interviews

Council conducted two interviews for the City Manager position.

The meeting was adjourned at 12:30 p.m.

Jolene E. Nelson, CMC, City Clerk

Mayor Ed Sisson called the meeting to order at 7:00 p.m. Also present were Councilmembers Robert Jurca, Mary Cooper, and Ray Penick along with Interim City Manager Glen Black and City Attorney David McConaughy. Absent was Councilmember Bill Raley. 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 June 12, 2015 special meeting, the June 15, 2015 regular meeting and the June 25, 2015 special meeting as submitted by the Clerk. All in favor, motion carried.

Citizen Comments

There were none.

Public Hearing: Special Events Permit Application; Delta Elks Lodge #1235

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

The Clerk reported that the Delta Elks Lodge #1235 has submitted a special events permit application for the following dates and times:

- August 22, 2015 for a Family Back to School Night; from 5:00pm to 1:00am
- September 26, 2015 for the Hunter's Ball; from 5:00pm to 1:00am
- October 31, 2015 for the Halloween Ball; from 6:00pm to 1:00am
- November 22, 2015 for the Holiday Kickoff Event; from 6:00pm to 1:00am

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 Jurca and seconded by Councilmember Cooper to approve the Special Events Permit Application submitted by Delta Elks Lodge #1235 for listed dates. All in favor, motion carried.

Regular Meeting, Delta City Council, July 7, 2015 (Cont.)

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

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

The Clerk stated that the Delta County Memorial Hospital has submitted a special events permit application for their event scheduled on September 12, 2015 at Lions Pavilion. 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.

Sisson, times 7:39am

It was moved by Councilmember Cooper and seconded by Councilmember Penick to approve the special events permit application for the Delta County Memorial Hospital Foundation for September 12, 2015. All in favor, motion carried.

Public Hearing: Special Events Permit Application; Delta Area Chamber of Commerce

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

The Clerk stated that the Delta Area Chamber of Commerce has submitted an application for a special events permit. Previously the Chamber had submitted and was approved for a special events permit at 680 1800 Road, July 18, 2015. However, they now want to expand the area to allow liquor. The Clerk contacted the State and the State is requiring the Chamber to submit a new application. Staff met with the Chamber and is satisfied that all concerns have been addressed.

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.

Councilmember Jurca questioned the times on the application.

The Clerk reported that there will be events at the location throughout the day and therefore the Chamber is requesting the permit from 10:00am to midnight.

Councilmember Cooper questioned if the State will be available to issue the permit in such short notice.

The Clerk stated that the State will have the license in time for the event.

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 Cooper and seconded by Councilmember Penick to approve the special events permit application for the Delta Area Chamber of Commerce for July 18, 2015. All in favor, motion carried.

Regular Meeting, Delta City Council, July 7, 2015 (Cont.)

Special Permit for Temporary Closure; Hoolie's Place

The Clerk reported that Hoolie's Place has submitted an application for a special permit for temporary closure for their annual motorcycle show on July 11, 2015 located in the parking lot next to their business. The application is complete and all fees have been paid.

Councilmember Penick stated that he has received comments regarding the cleanliness of that parking lot.

The Clerk explained that staff does inspect the parking lot after use and before refunding the deposit.

It was moved by Councilmember Jurca and seconded by Councilmember Cooper to approve the special permit for temporary closure for Hoolie's Place. All in favor, motion carried.

Retail Liquor Store License Renewal; Moonshine Liquors

The Clerk reported that Moonshine Liquors has submitted their retail liquor store license renewal. The application is complete and all fees have been paid. The police department is recommending renewal.

It was moved by Councilmember Penick and seconded by Councilmember Jurca to approve the retail liquor store license renewal for Moonshine Liquors. All in favor, motion carried.

**Zoning Amendment/Rezone; J C S Subdivision
Ordinance #5, 2015; Second and Final Reading
Zoning Amendment for 791 1550 Road**

Ordinance No. 5, 2015

AN ORDINANCE OF THE CITY OF DELTA, COLORADO,
AMENDING THE ZONING DESIGNATION OF 791 1550 Road (J
C S Minor Subdivision, Lot 1) from A-1, Agriculture District to R-
1A, Residential District

was read by the Clerk.

It was moved by Councilmember Cooper and seconded by Councilmember Penick to adopt Ordinance #5, 2015 on second and final reading. Roll call vote: Councilmember Cooper, aye; Jurca, aye; Penick, aye and Sisson, aye. Motion carried.

Consider Authorizing the City Attorney to File a Complaint Against Stantec Consulting, Inc in the Delta County District Court

City Attorney David McConaughy reminded Council that a few months ago Stantec was presented an ultimatum to engage in conversation regarding their contract with the City of Delta. Stantec has declined to engage in conversation. Mr. McConaughy requested to put on tonight's agenda the approval to file a complaint with the Delta County District Court. Today, he received a FedEx package from Stantec making an offer to decrease the amount of the bill. He is still

Regular Meeting, Delta City Council, July 7, 2015 (Cont.)

requesting Council approval to submit the complaint with the understanding that the attorney will make one more phone call to try to engage in a conversation and perhaps to a pre-case mediation.

Mayor Sisson questioned if the recommendation is not to take the offer Stantec has submitted.

There was discussion regarding the offer.

Manager Black stated that staff has been working with the Colorado Department of Transportation regarding site distances that are of concern. The agreement with Stantec was to get a design that would be to CDOT standards. There are some issues that need to be resolved.

There was a consensus to bring this agenda item back at the next meeting.

City Attorney Comments

Attorney McConaughy updated Council on the water files that his office has been working. He stated the next step is to create a comprehensive report of the water rights portfolio.

There was consensus amongst Council to consider the water report during budget discussions.

Mr. McConaughy also updated Council on the sign code. The Supreme Court completely changed how sign codes can be written. The City of Delta needs to amend its sign code to meet the requirements set out by the Supreme Court Decision.

Council suggested the attorney work with staff and present a draft to Council at a future work session.

Mr. McConaughy stated that the Department of Justice is actively inspecting municipalities regarding the American with Disabilities Act requirements. He suggested Council work with staff to see that the City of Delta is in compliance.

Mr. McConaughy presented Council with an updated fee schedule for his office. He explained that he honored Dave Smith's rates for one year. The proposed changes would go into effect on August 1st, 2015.

Councilmember Jurca questioned Manager Black if the City is happy with the services provided by Mr. McConaughy.

Manager Black stated that there are several items that Mr. McConaughy is currently working on. He suggested possibly looking at a RFP once the new City Manager is in office.

It was moved by Councilmember Penick and seconded by Councilmember Cooper that Council accept the City Attorney rate proposal as submitted. All in favor, motion carried.

City Manager Comments

Manager Black requested that Utilities Director Steve Glammeyer update Council about the upcoming Colorado Municipal Utilities Association conference being held in Delta.

Regular Meeting, Delta City Council, July 7, 2015 (Cont.)

City Manager Comments (cont.)

Director Glammeyer stated that the City of Delta is hosting the CMUA July 15, 2015 through July 17, 2015. He presented the schedule to Council and invited them to various events.

Manager Black updated Council on the following items:

- Senate Bill 152 Election to be held in November. Staff will be bringing information to Council at the next meeting.
- Staff is working on presenting the Model Traffic Code 2010 for adoption.

Councilmember Comments

Mayor Sisson stated that they may have an announcement on the City Manager after the executive session.

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 discussion of matters personal to particular employees and to discuss the purchase, acquisition, lease, transfer, or sale of real, personal, or other property interest under CRS Section 24-6-402(4)(a). All in favor, motion carried.

At 7:38 p.m., Mayor Sisson recessed the Regular Meeting and convened the Executive Session.

At 8:25 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, and Ray Penick along with Interim City Manager Glen Black, City Attorney David McConaughy and Utilities Director Steve Glammeyer who exited at 7:50pm. 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.

There was discussion regarding the announcement of the City Manager. There was a consensus to wait until the candidate accepts the offer.

The meeting was immediately adjourned.

Jolene E. Nelson, CMC, City Clerk

Item D:

Citizen Comments



MEMO

To: City Council
From: Glen L. Black *GLB*
Date: July 21, 2015
Subject: Senate Bill 152 Ballot Question



Community Development

Recommendation: The City notify the County of our intent to have a ballot question to overturn Senate Bill 152.

Background: Senate Bill 152 restricts the City's ability to provide telecommunications services, advanced services, or cable television services, as such services are defined in the statute. The City is currently working with Delta County, DCED and Region 10 on providing Broadband to our area. SB 152 may pose an obstacle to that process.

Cost: The City will incur election costs. Delta County is already planning a Ballot Issue on SB 152, so costs will be less for shared services.

Alignment With Strategic Planning: The Comprehensive Plan under Economic Development, Policy 1, the City will work ... to attract new businesses. Broadband has become essential infrastructure for many businesses.

Actions To Be Taken if Approved: City Clerk will notify the County of our intent to have a ballot question.

MEMO

To: City Council
From: Steve Glammeyer, P.E., Utilities/Public Works Director
Date: July 21, 2015
Subject: Purchase of 602 W. 4th St.



Utilities/Public Works Department

Recommendation:

Staff is recommending that Council authorize the City Manager to sign the attached purchase contract for 602 W. 4th Street.

Background:

During the 2015 budget process, staff budgeted funds to pursue acquisition of the property located at 602 W. 4th Street. The property is needed to complete the extension of Kellogg Street to 5th street to allow better traffic flow and business access now that Confluence Drive is complete. Staff has negotiated a price of \$45,000 for the property and that is under our budgeted amount. After reviewing recent acquisitions for Confluence Drive, staff feels this is a very good price. We anticipate title work costing around \$495.

Staff has prepared a simple purchase contract and the owner has signed the contract. (See attached)

Cost:

Staff has negotiated a purchase price of \$45,000 and anticipates the cost of title work at \$495.

Alignment with Strategic Planning:

Staff had identified that Kellogg Street should be extended to 5th Street to help with more efficient traffic flow since the completion of Confluence Drive.

Action to be Taken if Approved:

The City Manager will sign the contract for purchase and the property will be scheduled for closing and transfer of ownership.

If the contract purchase price exceeds the appraised value, the buyer shall have the right to cancel this contract. If the appraisal is not completed before the expiration of the time frame stated herein (or declared by law), the seller shall have the right to cancel this contract, resulting in a return of the binder deposit to the buyer.

5. INSPECTION & REPAIRS: (select one)

a) The buyer accepts the property "AS IS, WHERE IS and WITH ALL FAULTS".

b) The buyer shall have _____ calendar days (unless otherwise declared by law) from the date this contract is fully endorsed, to have professional inspections performed by licensed/certified inspectors or contractors. Inspection of the property may include, but is not limited to, general home inspection, survey, structural, termite, wood infestation, fungus, septic/sewer, mold, radon, and lead-based paint hazards. If the buyer does not present the seller any professional inspection reports identifying defective conditions before the expiration of the time frame stated herein (or declared by law), the property shall be consider in acceptable condition and the repair requirement below shall not apply.

Provided it will not exceed a cost of \$ _____, the seller agrees to correct/repair the defective condition(s) reported in any such professional inspection reports. If correction/repair of such defective condition(s) exceeds the amount stated herein and the parties cannot reach an agreement addressing such repair(s) to the satisfaction of the buyer, the buyer shall have the option to accept the property "as is" or cancel this contract.

6. IS A LEAD-BASED PAINT DISCLOSURE & PAMPHLET REQUIRED: _____ YES NO

This disclosure and pamphlet are federally mandated for properties built prior to 1978.

Disclosure and the pamphlet "Protect Your Family from Lead in Your Home" are available at: www.hud.gov

7. PERSONAL PROPERTY: The following personal property shall be included in the sale in its "as is" condition.

Anything on premise at time of closing.

8. CLOSING: Time being of the essence, closing shall be on or before August 31, 2015.

9. POSSESSION: (select one)

a) Possession shall be delivered at closing.

b) There is an occupancy agreement attached, detailing the terms for "delivery of possession".

10. MERCHANTABLE TITLE: At closing, the seller shall convey good and merchantable title via warranty deed. The seller shall make all reasonable efforts to provide merchantable title. In the event that the title is unmerchantable, this contract shall be deemed canceled, resulting in a return of the binder deposit to the buyer within five (5) calendar days.

11. TITLE INSURANCE: Title Insurance (or other "title evidence") to be issued in the form of: (more than one may apply)

Mortgagee Title Insurance Owner's Title Insurance Other: Buyer will secure title policy

12. SELLER'S CLOSING COST: The seller shall pay the following expenses relating to the closing of this transaction:

N/A

13. BUYER'S CLOSING COST: The buyer shall pay the following expenses relating to the closing of this transaction:

All appropriate costs including recording fees.

14. PRORATION: Property taxes, valorem taxes, association fees, and the like, shall be prorated at the time of closing.

15. ADDITIONAL PROVISIONS: None

16. RISK OF LOSS: The seller agrees to keep hazard insurance on the structure until the sale of the property has been completed as provided herein.

17. NO ASSIGNMENT: The buyer may not assign or transfer their rights or obligations under this contract or any interest herein.

18. FAILURE TO INSIST ON STRICT PERFORMANCE: Party does not give up rights. If either party fails to enforce any clause or part of this contract, said party may enforce such clauses or parts at a later time without penalty.

19. RIGHTS DECLARED BY LAW: If there is any conflict between this contract and any provisions of federal, state, or local laws, the rights declared by such law shall control, supersede and be superior to this contract.

20. SEVERABILITY: If any portion of this contract is found to be invalid or unenforceable, the remainder of this contract will remain in full force and effect.

21. ENTIRE AGREEMENT: This contract and any attachments signed by both parties constitute the entire agreement between buyer and seller and supersede all prior discussions, negotiations, and agreements between the buyer and the seller. Neither the buyer nor the seller (nor agent thereof) shall be bound by any understanding, agreement, promise, or representation, either expressed or implied, that is not specified in this contract or signed attachments.

IF THIS DOCUMENT IS NOT CLEAR TO ANY PARTY, SEEK COMPETENT LEGAL ADVICE BEFORE SIGNING.

Seller(s) Anne D Ledesma

Date 7-13-15

Buyer(s) _____

Date _____

Executive Session:

MEMO

To: City Council
From: Glen L. Black *GLB*
Date: July 21, 2015
Subject: Appointment of City Manager



Community Development

Recommendation: Delta City Council consideration of the appointment of Mark Collins as Delta City Manager and authorization of the Mayor to sign the Employment Agreement.

Background: City Council advertised the vacancy in the City Manager position. The City received 43 applications for the position and Council interviewed five finalist candidates. Council has found that Mark Collins has met the requirements and has the skills to fill the position of City Manager for the City of Delta.

Cost: No cost to the City

Alignment With Strategic Planning: The City Charter establishes Delta as a “Council – Manager” form of Government. “The Council shall appoint a City Manager who shall have the powers and perform the duties in this Charter.”

Actions To Be Taken if Approved: Mayor will sign the Employment Agreement

Attorney Comments



City Manager Comments



Councilmember Comments

