

Mayor Ron Austin called the meeting to order at 7:07 p.m. Also present were Councilmembers Nathan Clay, Kevin Carlson, Christopher Ryan and Gerald Roberts, along with City Manager David Torgler 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**

It was moved by Councilmember Roberts to remove Ordinance #16, 2018 and Ordinance #17, 2018. He stated that he does not believe the Council has discussed the ordinances enough to be voting on them. The motion did not receive a second, therefore the motion failed.

**Minutes**

Councilmember Ryan stated that his comment under the Supplemental Appropriations should read that the two offset each other.

It was moved by Councilmember Roberts and seconded by Councilmember Ryan to approve the minutes of the December 4, 2018 regular meeting, as amended. All in favor, motion carried.

**Citizen Comments**

Judy Hagan, 702 Main Street, commented on a theft that occurred.

Scott Schaible, 13859 25 Mesa Road, commented on a letter to the editor regarding ex parte communications. He stated that we have an active and involved Council that is solution orientated and tries their best.

Jay Stooksberry requested that he submit his comments during the discussion involving marijuana.

Orval Proctor, 701 Main Street, stated that he attended the work session last week on how the Council would like to improve this community. He encouraged council to take time to make adequate decisions.

**Public Hearing: Annexations of Valley Sunset Additions No. 1 and No. 2**

At 7:22pm the Mayor recessed the regular meeting and convened a public hearing.

City Attorney David McConaughy stated that at the close of the public hearing in one hour he is recommending to continue to hearing to a further date. There will not be a staff report this evening.

**Regular Meeting, Delta City Council, December 18, 2018 (cont.)**

**Ordinance #15, 2018; Second and Final Reading**  
**Transfer of Gas Franchise to Black Hills Colorado Gas, Inc.**

City Manager David Torgler reported that Council passed the following ordinance on first reading and it was published as required by the Charter.

There was discussion regarding first and second reading of any type of ordinance.

Ordinance #15, 2018

AN ORDINANCE OF THE CITY OF DELTA, COLORADO,  
CONSENTING TO TRANSFER OF A GAS FRANCHISE TO  
BLACK HILLS COLORADO GAS, INC

was read by the Clerk.

It was moved by Councilmember Roberts and seconded by Councilmember Carlson to adopt Ordinance #15, 2018 on second and final reading. Roll call vote: Councilmembers Clay, aye; Roberts, aye; Carlson, aye; Ryan, aye and Austin, aye. Motion carried.

**Ordinance #16, 2018; Second and Final Reading**  
**2018 Supplemental Appropriations**

City Manager David Torgler stated there have been no changes since first reading.

Ordinance #16, 2018

AN ORDINANCE APPROPRIATING SUMS OF MONEY TO THE  
VARIOUS FUNDS AND SPENDING AGENCIES IN THE  
AMOUNTS AND FOR THE PURPOSES SET FORTH BELOW  
FOR THE CITY OF DELTA, COLORADO, FOR THE 2018  
BUDGET YEAR

was read by the Clerk.

Councilmember Ryan stated that two of these items offset one another by revenues and the third one is from direct service from the community cleanup.

It was moved by Councilmember Ryan and seconded by Councilmember Roberts to adopt Ordinance #16, 2018 on second and final reading. Roll call vote: Councilmembers Clay, aye; Roberts, aye; Carlson, aye; Ryan, aye and Austin, aye. Motion carried.

**Ordinance #17; 2018 First Reading**  
**Medical Marijuana Zoning**

City Attorney David McConaughy stated that the following ordinance is to address zoning for medical marijuana. He summarized the state statute regarding the four types of licenses for medical marijuana. This ordinance does impose performance standards for each type of license.

**Regular Meeting, Delta City Council, December 18, 2018 (cont.)**

**Ordinance #17; 2018 First Reading  
Medical Marijuana Zoning (cont.)**

Councilmember Roberts stated that it is not feasible to address this item at this time. He believes they are ahead of the cart and there needs to be more discussion before continuing forward.

The Attorney went through the ordinance showing Council the changes made to the zoning code. There was extensive discussion regarding the ordinance.

ORDINANCE NO. 17, 2018

AN ORDINANCE OF THE CITY OF DELTA, COLORADO,  
HEREBY AMENDING THE DELTA MUNICIPAL CODE TO  
PROVIDE ZONING AND LAND USE REGULATIONS FOR  
MEDICAL MARIJUANA FACILITIES

was read by the Clerk.

It was moved by Councilmember Clay and seconded by Councilmember Ryan to adopt Ordinance #17, 2018 on first reading with the amendments adding the words “on the same property” to the performance standards through all zone districts. Roll call vote: Councilmembers Clay, aye; Roberts, nay; Carlson, aye; Ryan, aye and Austin, aye. Motion carried.

**Ordinance #18, 2018; First Reading  
Medical Marijuana Licensing**

City Attorney David McConaughy stated that this ordinance adopts the licensing requirements for medical marijuana. He advised that there will be several changes between first and second reading.

Mr. McConaughy went through the ordinance in its entirety providing options for Council to consider.

ORDINANCE NO. 18, 2018

AN ORDINANCE OF THE CITY OF DELTA, COLORADO,  
HEREBY AMENDING THE DELTA MUNICIPAL CODE TO  
PROVIDE RULES AND REGULATIONS FOR THE LICENSING  
AND OPERATION OF MEDICAL MARIJUANA FACILITIES

was read by the Clerk.

It was moved by Councilmember Ryan and seconded by Councilmember Carlson to adopt Ordinance #18, 2018 on first reading with option 2 to hold a lottery for the license application; to set the fees in section 5.22.060C as \$5000 for a new application, \$3500 for a renewal application, \$5000 for a transfer of location and transfer of ownership license and the annual license fee of \$5000; to have 5.22.180 to provide that the City Attorney will act as the prosecutor

**Regular Meeting, Delta City Council, December 18, 2018 (cont.)**

**Ordinance #18, 2018; First Reading  
Medical Marijuana Licensing (cont.)**

for suspension and/or revocation hearings and to define schools as provided for in CRS 44-11-104. Roll call vote: Councilmembers Clay, aye; Roberts, nay; Carlson, aye; Ryan, aye and Austin, aye. Motion carried.

Mr. McConaughy suggested that Council motion to direct staff to revise the ordinance on second reading to include the following items as being subjected to the one thousand foot separation requirement.

It was moved by Councilmember Carlson and seconded by Councilmember Ryan to direct staff to revise the ordinance on second reading to include the schools as defined by statute, law enforcement facilities, court facilities, churches, parks, licensed day care centers as being subjected to the one thousand foot separation requirement

**Public Hearing: Annexations of Valley Sunset Additions No. 1 and No. 2**

At 8:31pm it was moved by Councilmember Roberts and seconded by Councilmember Carlson to continue the public hearing for the annexations of Valley Sunset Additions No. 1 and No. 2 to January 22, 2019. All in favor, motion carried.

**Resolution #26, 2018; Adopting the 2018 Multi-Jurisdictional Hazard Mitigations Plan for Delta County**

Public Works and Utilities Director Betsy Suerth is recommending adopting a resolution adopting the 2018 Multi-Jurisdictional Hazard Mitigation Plan for Delta County. This will update the existing plan and provide for some federal funding to help mitigate potential hazards in Delta County.

RESOLUTION #26, 2018

A RESOLUTION FOR THE CITY OF DELTA TO ADOPT THE 2018 MULTI-JURISDICTIONAL HAZARD MITIGATION PLAN FOR DELTA COUNTY AS ITS OFFICIAL PLAN

was read by the Clerk.

It was moved by Councilmember Roberts and seconded by Councilmember Clay to adopt Resolution #26, 2018. Roll call vote: Councilmembers Clay, aye; Roberts, aye; Carlson, aye; Ryan, aye and Austin, aye. Motion carried.

**Consideration to Complete a Waiver that Delegates the City of Delta Damage Prevention Safety Program to the State of Colorado Underground Damage Safety Commission**

Public Works and Utilities Director Betsy Suerth stated that as of January 1, 2019 there will be new regulations to help prevent damage to underground facilities. She summarized the requirements. The new regulation also includes the creation of an Underground Damage Prevention Safety Commission which will make recommendations regarding best practices,

**Regular Meeting, Delta City Council, December 18, 2018 (cont.)**

**Consideration to Complete a Waiver that Delegates the City of Delta Damage Prevention Safety Program to the State of Colorado Underground Damage Safety Commission (cont.)**

policies for public safety and policies to improve efficiencies to the program. The Commission will have enforcement powers that will review complaints of alleged violations and order appropriation remedial actions and penalties. Home rule municipalities have the ability to create their own damage safety program or complete a waiver that delegates the City's program to the State program. Ms. Suerth explained what it would require of the City to develop their own.

Councilmember Ryan questioned if the new asset management system will assist with the location services.

Ms. Suerth stated that eventually it will assist in this program.

There was discussion regarding the complaints and fines for violators.

It was moved by Councilmember Roberts and seconded by Councilmember Carlson to direct staff to complete a Waiver that Delegates the City of Delta Damage Prevention Safety Program to the State of Colorado Underground Damage Safety Commission. All in favor, motion carried.

**City Attorney Comments**

City Attorney David McConaughy reminded Council that they need to rescind the fireworks ban that was implemented back in July. He also updated Council on the litigation that has come to a close.

**City Manager Comments**

City Manager David Torgler reported on the following items:

- January 15, 2019 will be the first Coffee with Council. After that meeting, there will be discussion to receive input for the design of the pocket park on Main Street.
- He will be excusing himself from the executive session this evening since the discussion involves his church.
- The appraisal reports are still coming in. He hopes to bring something back to Council in January.
- He thanked the staff that worked on the hazard mitigation plan. They put in several hours getting that together.
- He will be on vacation the week of Christmas and Wilma Erven will be the Acting City Manager.

**Councilmember Comments**

Councilmember Carlson wished everyone a Merry Christmas.

Councilmember Ryan commented on the zoning for marijuana. Council is listening to the community when they are considering the new changes.

**Regular Meeting, Delta City Council, December 18, 2018 (cont.)**

**Councilmember Comments (cont.)**

Councilmember Clay questioned where staff is at with the marketing position.

Mr. Torgler stated they are drafting the job description.

Councilmember Roberts also wished everyone a Merry Christmas.

Mayor Austin thanked the Chief of Police and his department for their help with the Walmart situation. He requested that the City Attorney to provide a brief description of ex parte communication which was provided.

**Executive Session**

It was moved by Councilmember Ryan and seconded by Councilmember Clay to convene an Executive Session 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) and 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). All in favor, motion carried.

At 9:00 p.m., Mayor Austin recessed the Regular Meeting and convened the Executive Session.

At 9:35 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 Christopher Ryan, Gerald Roberts, Kevin Carlson and Nathan Clay along with City Attorney David McConaughy and Parks, Recreation and Golf Director Wilma Erven. 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.

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Jolene E. Nelson, CMC, City Clerk