

Mayor Kevin Carlson called the meeting to order at 7:00 p.m. Also present were Councilmembers Cathy Boyd, William Tedrow, Ryan Crick and Mark Broome, along with City Manager Elyse Casselberry. A meeting notice was posted on the City's website and 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.

**Citizen Comments**

Brandon Lindsey, 981 Willow Wood Lane, stated that he appreciates what is happening to clean up the City. He questioned what the City is doing to address panhandlers and the homeless.

Charlie Mason, 318 Main Street, reported that one of his windows was busted out in the alley. He suggested improving the lighting the areas. He would like to see what other communities are doing to see if there is more Delta can be doing to address the homeless situation. He also commented on not allowing public comment virtually and would like the Council to reconsider when updating the policy.

**Approval of the December 5, 2023 Regular Meeting Minutes**

It was moved by Councilmember Boyd and seconded by Councilmember Crick to approve the minutes of the December 5, 2023 regular meeting. All in favor, motion carried.

**Public Hearing Continued from December 5, 2023; Tavern Liquor License Application; Ute St Tavern and Delta Tin Hall on the Back 40, LLC**

The Mayor re-opened the public hearing.

The Clerk reported that the applicant submitted a statement that the diagram is within the leased premises as outline in the lease agreement. They also submitted an amended application reflecting it is 209 and 215 Ute Street with the proposed area for the Tavern and the storage of the liquor. With these amendments the applicant has submitted all information Council requested at the previous meeting.

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

Mayor Carlson stated that if you go by the location right now; the property is looking very nice. The owner is moving forward in a positive manner. He does believe this business could bring more people to visit Delta.

## **Regular Meeting, Delta City Council, December 19, 2023 (Cont.)**

### **Public Hearing (cont.)**

It was moved by Councilmember Tedrow and seconded by Councilmember Crick to approve the Tavern Liquor License Application for Ute St Tavern and Delta Tin Hall on the Back 40, LLC All in favor, motion carried.

### **Cunningham Orchard Estates Subdivision Preliminary Plat**

City Planner Michael Markus reported that the subject request is for approval of a Preliminary Plat for the Cunningham Orchards Estates 2022 Subdivision consisting of 14.59 acres total to be divided into 46 residential lots on 11.17 acres, 2.57 acres of dedicated road right-of-way, and tracts for stormwater management, open space, and trails. He summarized the original subdivision approval which has since expired. There is an existing subdivision improvement agreement (SIA) that has several outstanding requirements which include an irrigation system, ditch piping, park land, trail, open space, landscaping, and fencing improvements. The Cunningham Orchard Estates Homeowners Association (HOA) provided a response back in July of 2022 that has an overview of the current states of these required improvements. As part of the subject request for the new 46-lot subdivision, staff recommends requiring a new SIA prior to recording any final plat as a conditional approval. The applicant will be responsible for submitting sufficient evidence for any outstanding improvements that have been completed, and the new SIA may require the City to collect additional escrow funds or other security, as the costs are likely very different from 2006.

Mr. Markus provided the criteria review. A public hearing was held at the Planning Commission meeting on October 9, 2023. The Planning Commission and staff recommends approval of the Cunningham Orchard Estates 2002 Subdivision Preliminary Plat with the following conditions:

1. Prior to commencement of any earthwork or construction activities for the next phase of development, the Applicant must:
  - a. Provide detailed drawings and/or manufacturer's specifications for City staff review and approval to demonstrate compliance with Section 2.50.01 for play structures within the park.
  - b. Provide manufacturer's specifications/cut sheets to verify all new security light fixtures will be downlit and shielded as required.
  - c. Have all landscaping and irrigation plans wet stamped by a licensed Colorado landscape architect.
  - d. Obtain any necessary permits from the US Army Corps of Engineers.
2. Prior to Final Plat Filing No. 4 approval, the Applicant must:
  - a. Complete minor corrections to the plat as identified by City staff for full compliance.
  - b. Enter into a new SIA and lien agreement that includes any outstanding improvements from the 2006 agreement and updated escrow amounts, as well as provisions to ensure compliance with Condition No. 3 herein regarding future re-evaluation of stormwater impacts. The Applicant is responsible for submitting sufficient evidence for any improvements that have been completed.
  - c. Demonstrate the legal authority to amend the private covenants or otherwise ensure the maintenance of all common elements by all property owners in the subdivision in perpetuity. If legal authority cannot be demonstrated, the Applicant may submit a request to City Council to instead pay the parks fee in lieu of proving developed park land.

**Regular Meeting, Delta City Council, December 19, 2023 (Cont.)**

**Cunningham Orchard Estates Subdivision Preliminary Plat (cont.)**

- d. Coordinate with City staff to have all remaining utilities that were previously installed but not accepted inspected. Any deficiencies identified must be addressed in accordance with the City Standards and Specifications.
  - e. Update the Attorney Certificate (which could alternatively be a Title Company Certificate) on the plat to list any exceptions to the title and all relevant title information must be submitted for review and approval by the City Attorney. Depending on the title exceptions, additional conditions may be required.
3. Prior to any Final Plat approvals following Filing No. 4, the Applicant must re-evaluate stormwater drainage in the southwest corner of the subdivision on Lot 1 to the retention ponds on Tracts A and E and provide sufficient mitigation measures, as applicable.

There was some discussion regarding the irrigation and drainage concerns. The applicant will need to provide information on how both will be handled.

Councilmember Boyd stated that there were concerns about the applicant not completing the requirements from the first subdivision approval.

Mr. Markus stated that was certainly noted and therefore the request for the SIA to address those concerns prior to final plat.

Larry Hinger, applicant, reported that they cannot provide irrigation until the next phase. He believes the storm water concern was addressed at least three times. He commented on the changing of requirements from staff requiring multiple preliminary plats.

City Engineer David Hood provided some history from the first approval regarding storm water. With the increase of lots, the applicant must account for more storm water and at this time, a retention pond is required to handle the storm water.

There was continued discussion regarding storm water and the irrigation ditches. Mr. Hinger reported that there are electrical needs that have to be installed to address the irrigation system which will be addressed during the new phase.

Gerald Roberts, 1962 Columbine Court, reported that he is a member of the Planning Commission; however, he is speaking this evening as an individual member and not for the whole Commission. There have been many promises made to the people in this subdivision. He would like to know what the schedule will be to address the outstanding requirements as they should have already been completed. It's time for the City to take steps to guarantee the improvements.

City Manager Elyse Casselberry stated that putting the conditions on the preliminary plat will then require them to be completed before the final plat can be approved. No vertical construction can move forward until the final plat is approved. The final plat must be submitted within one year and approval cannot occur until the conditions have been completed.

Councilmember Crick hopes that this is the first step in the right direction to get the improvements completed and fix the previous issues. The SIA needs to be completed to ensure that happens.

**Regular Meeting, Delta City Council, December 19, 2023 (Cont.)**

**Cunningham Orchard Estates Subdivision Preliminary Plat (cont.)**

Manager Casselberry reported that all parties will draft the SIA which will also include a funding mechanism to ensure completion.

It was moved by Councilmember Crick and seconded by Councilmember Tedrow to conditionally approve the Cunningham Orchard Estates Subdivision Preliminary Plan with the conditions recommended by staff and the Planning Commission. All in favor, motion carried.

**Intergovernmental Agreement with Delta County Regarding Purchase, Installation, and Operation of an Electric Vehicle Charger at 124 E. 6<sup>th</sup> Street, Delta, CO (Library)**

Electric Department Manager Adam Suppes reported that the staff was approached by Delta County regarding an electric vehicle charger to be installed at the new library. The County was awarded a grant to install chargers throughout the County. Staff drafted an intergovernmental agreement for the purchase, installation and operation of the charging station. He summarized the agreement. The County will install the charger and upon completion would give ownership to the City.

City Manager Elyse Casselberry also reported that the funds that are received will be put into the fund that will maintain the building and will include the charging station as well. This fund was agreed upon in the agreement with the library.

Manager Suppes provided information on the location of the charging station. ChargePoint will be handling the networking, mapping and card interface.

It was moved by Councilmember Boyd and seconded by Councilmember Crick to approve the Intergovernmental Agreement with Delta County for the purchase, installation and operation of an electric charger at 124 E. 6<sup>th</sup> Street, Delta, CO. All voted in favor, motion carried.

**Resolution #17, 2023; Updating the Incentive Policy**

City Manager Elyse Casselberry stated that in 2021 City Council adopted a new economic incentive policy. This is designed to support new and existing businesses to expand growth and to incentivize housing. There is an annual review in place to be sure the policy is being effective. The amended policy before Council this evening clarifies what kind of businesses are eligible, better distinguishes approval/denial of an application and clarifies that the committee appointments are for one year since the policy is only for one year. The Resolution in the packet did not reflect the appointment of City Council as one year; therefore, the motion to approve should include that correction.

RESOLUTION #17, 2023

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DELTA, COLORADO, AMENDING THE POLICY TO PROVIDE ECONOMIC INCENTIVES FOR DEVELOPMENT

was read by the Clerk.

**Regular Meeting, Delta City Council, December 19, 2023 (Cont.)**

**Resolution #17, 2023; Updating the Incentive Policy (cont.)**

It was moved by Councilmember Crick and seconded by Councilmember Boyd to adopt Resolution #17, 2023 as amended. Roll call vote: Councilmembers Broome, aye; Crick, aye; Tedrow, aye; Boyd, aye and Carlson, aye. Motion carried.

**Resolution #18, 2023; Purchase of 540 W. 4h Street, Delta, CO**

City Manager Elyse Casselberry stated that the City of Delta was awarded funding from Department of Local Affairs Division of Housing to purchase the building for the warming/cooling shelter. Council approved a resolution earlier this year for this purchase; however, there were some amendments to the contract that Council needs to approve. The closing is scheduled for this Thursday. She summarized the next steps in remodeling of the building and drafting an operation plan for the shelter. She emphasized that this warming/cooling shelter is to compliment Abraham Connection.

Mayor Carlson stated that the unhoused issue in not just a Delta concern, it is everywhere. In order for Delta to enforce certain laws, the City must have a place for them to go. The City is trying to keep the unhoused in a location that is safe for them to be. This will hopefully make a positive impact to those that engage in the services we are providing.

Manager Casselberry provided an extensive overview on the approach the City has taken to address the unhoused situation. She explained that the City just does not have the services, housing, jobs to address the issue fully. The State is making significant funding to help reduce homelessness that the City has been awarded. The City is addressing the concerns in a way that we are not violating recent laws that the legislation has adopted.

There was additional discussion regarding the current laws and the ability to enforce the ordinances Council has adopted to address nuisances and camping. Council was encouraged to speak with their legislators as there has been a lot of reform in the judicial system that has affected staff's ability to address the nuisance and camping violations.

RESOLUTION NO. 18, 2023

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DELTA AUTHORIZING THE CLOSING OF THE PURCHASE OF CERTAIN REAL PROPERTY LOCATED AT 540 WEST 4TH STREET, DELTA, COLORADO

was read by the Clerk.

It was moved by Councilmember Crick and seconded by Councilmember Boyd to adopt Resolution #18, 2023. Roll call vote: Councilmembers Broome, aye; Crick, aye; Tedrow, aye; Boyd, aye and Carlson, aye. Motion carried.

**Resolution #19, 2023; Adopting Ballot Issue Language for the 2024 April Election**

City Clerk Jolene Nelson reported that this resolution adopts ballot language and setting forth details for the April 2, 2024. There will be three Council seats available, the Charter Commission

**Regular Meeting, Delta City Council, December 19, 2023 (Cont.)**

**Resolution #19, 2023 (cont.)**

question and the marijuana question. After the work session that discussed the marijuana question, staff did get clarification from the City Attorney that the Council will have the ability to address license types in the ordinance that they consider for regulation of marijuana licenses.

Mayor Carlson summarized the Charter Commission process.

Resolution No. 19, 2023

A RESOLUTION OF THE DELTA CITY COUNCIL, AUTHORIZING  
A MAIL BALLOT ELECTION ON APRIL 2, 2024, FIXING BALLOT  
TITLES AND QUESTIONS, AND SETTING FORTH OTHER  
DETAILS RELATING THERETO

was read by the Clerk.

It was moved by Councilmember Crick and seconded by Councilmember Tedrow to adopt Resolution #18, 2023. Roll call vote: Councilmembers Broome, aye; Crick, aye; Tedrow, aye; Boyd, aye and Carlson, nay. Motion carried.

**Colorado Municipal League Policy Committee Appointment**

City Manager Elyse Casselberry reported that the City is able to participate in the Colorado Municipal League's Policy Committee. The Council must appoint a representative and can also appoint and alternate. She is recommending that a staff member be appointment as the representative and a Councilmember as the alternate. There is potentially land use and local control discussions that could impact the City of Delta so it's important to be on the committee to learn what is coming forward.

It was moved by Councilmember Crick and seconded by Councilmember Broome to appoint City Manager Elyse Ackerman-Casselberry to the Colorado Municipal League Policy Committee and William Tedrow as the alternate. All in favor, motion carried.

**City Attorney Comments**

There were none.

**City Manager Comments**

City Clerk Jolene Nelson sent Council a proclamation that she is needing direction on. There was consensus to move forward with the Aviation Proclamation.

City Manager Elyse Casselberry reminded Council of the tour on Thursday. There are random dates available to serve dinner at Abraham Connection if Council is interested let her know and she can get in touch with them when there is a date available.

## **Regular Meeting, Delta City Council, December 19, 2023 (Cont.)**

### **Councilmember Comments**

Councilmember Broome suggested that the resource center focus more on drug/alcohol addiction, and mental health. He commented on the elderly that does not have insurance to pay for home health. He also commented on the new laws regarding the homeless. He would like to see CML address the situation. He wished everyone a Merry Christmas.

Councilmember Crick thanked staff for all that they do. He would like to have an update on Pow Wow. He appreciates this community and his grateful for their support. He also wished everyone a Merry Christmas.

Councilmember Tedrow stated that this is the last meeting of the year. It has gone by pretty fast and a lot was accomplished this year.

Councilmember Boyd also thanked staff. She wished everyone a happy and healthy holiday season with all kinds of goodies. She reminded everyone to support their local businesses.

Mayor Carlson commented on the parade of lights and the look on Main Street for the holidays. The Council is trying to do what is in the best interest of our community and trying to help those throughout our community. He commented on the unhoused situation and how the City is trying to address the situation and not ignoring it. He thanked the Council for being on the board, for their hard work and dedication. He thanked staff for everything they do and commented on the staff at the cemetery. He wishes everyone a Merry Christmas.

### **Executive Session**

It was moved by Councilmember Crick and seconded by Councilmember Broome to convene an Executive Session To discuss the purchase, acquisition, lease, transfer, or sale of real, personal, or other property interest under CRS Section 24-6-402(4)(a); more specifically to discuss purchase or acquisition of property located at 264 Main Street, Delta, CO. All in favor, motion carried.

At 9:30 p.m., the Regular Meeting was recessed. The Executive Session was convened a short time later.

At 9:50 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 Cathy Boyd, Ryan Crick, William Tedrow, and Mark Broome, as well as City Manager Elyse Casselberry and City Clerk Jolene Nelson. 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