

Mayor Kevin Carlson called the meeting to order at 7:00 p.m. Also present were Councilmembers Cathy Boyd, William Tedrow, and Mark Broome, along with City Manager Elyse Casselberry and City Attorney David McConaughy via zoom. 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**

Russell Tyler, 763 E. 7<sup>th</sup> Street, commented on the Hillside Street Project and how it is affecting his property.

Rena Howard, 321 E. 7<sup>th</sup> Street, Chair of Downtown Delta Partnership, the group includes various businesses to help revitalize Main Street. She introduced the board members.

Hartland Clubb, 14382 E Road, stated that Main Street is the heart of our community and this group is going to work on helping revitalize the area. He commented on various changes in the economy and how people shop. They hope to help local businesses address these challenges and revitalize downtown.

Josh Vigil, 1641 A Street, reported that he was not able to be present at the last meeting when Council discussed the Veteran Discount at the recreation center. He applauded the City for stepping out and recognizing the Veterans in this community. He commented on Veteran discount saying that it is not about saving money, it's about the recognition. He offered some suggestions moving forward on other discounts the City may want to consider.

**Approval of the January 16, 2024 Regular Meeting Minutes**

It was moved by Councilmember Boyd and seconded by Councilmember Tedrow to approve the minutes of the January 16, 2024 regular meeting. All in favor, motion carried.

**Vacancy of the City Councilmember District B Seat**

City Attorney David McConaughy reported that as Council is aware, Councilmember Ryan Crick has submitted his resignation. The Charter requires the vacancy be filled by appointment. However, this seat expires in April at the time of election. There are no candidates running for District B so Council will need to appoint after the election for the new term. Although we are not a statutory city, the statute requires the appointment to be done within 60 days of the resignation. That date is after the election. He provided the options Council can consider at this time, which are appoint at any time or wait until after the election. If they choose to appoint now, it will have to be done again after the election.

## **Regular Meeting, Delta City Council, February 6, 2024 (Cont.)**

### **Vacancy of the City Councilmember District B Seat**

Councilmember Tedrow does not see why they should do two appoints and would like to wait until after the election.

There was some discussion regarding advertising for the vacancy and what the requirements will be. The requirements are the same as becoming a candidate other than they do not have to circulate a petition.

There was consensus to start advertising the position and appoint after the election.

### **Public Hearing: Soper-Wang Fence Height Variance**

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

Community Development Manager Joe Gillman reported the subject request is an Appeal of the City of Delta Planning Commission's decision of conditional approval on November 6, 2023, for the Soper-Wang Fence Height Variance. At a regular meeting on November 21, 2023, the City Council decided to hear the request de novo; therefore, this staff report provides an overview of the requested Variance and Planning Commission's decision for City Council's review and final action. The request is for approval of a Variance of two feet to the maximum fence height in the A-1 Agricultural Zoning District to allow an eight-foot fence. The subject property is addressed as 10 Hartig Drive and located on the southeast corner of the Hartig Drive and Hillcrest Drive intersection. The request is submitted by property owners Matthew C. Soper and I-Chu (Sarah) Wang ("Applicant"). Staff recommends careful consideration of conditional approval for the Variance since it is found that all criteria can be met with certain conditions. At the November 6, 2023, meeting, Planning Commission found that all criteria for approval could be met with additional conditions beyond those recommended by staff. Mr. Gillman referred to materials provided in the Council in their packets.

The subject property is zoned A-1 Agricultural and currently occupied by a residence built in 1904, as well as several accessory structures, according to the Delta County Assessor's records. In the A-1 Zoning District, the maximum fence height is six feet, as required under Section 17.04.240(B)(1). The requested Variance of two feet to the maximum height would result in allowing an eight-foot fence to be constructed. The subject property is almost five acres total in size, with approximately three acres being farmed for alfalfa located east of an irrigation lateral. The remaining acreage is located west of the lateral and includes the 1904 residence and the accessory structures. According to the narrative and site plan provided by the Applicant, the new eight-foot fence would be located on the portion of the property occupied by the residence near the Hartig Drive and Hillcrest Drive intersection. The increased height of the fence is to serve two purposes: privacy and protection of a high-value agricultural production area from deer (i.e., orchard and vineyard).

Sarah Wang, co-owner of the property, stated that they are not putting the fence around the alfalfa field. They are looking at doing an experimental orchard/vineyard and also have some plants that they would like to keep the deer from getting to. She has done some research on the type/size of fence needed to keep the deer out and it appears an eight-foot fence is suggested.

Councilmember Boyd questioned what type of fence in there currently.

**Regular Meeting, Delta City Council, February 6, 2024 (Cont.)**

**Public Hearing (cont.)**

Ms. Wang stated it is chain link.

Councilmember Tedrow questioned what type of fence they are looking at installing.

Ms. Wang stated that the solid portion of the fence would be core-gated metal.

Councilmember Broome question what the setback is from the road.

Ms. Wang reported that the fence is currently on the fence line. Their goal is not to make it look like a fort. They will ensure that there is adequate line of site at the intersection. She would guess that the fence is approximately four feet from the road.

There was discussion regarding the code requirements for agriculture fencing. There is no provision allowing deer fencing without a variance.

Fay Matthews, 1751 Hillcrest Drive, reported that he knows that intersection very well as he has lived in the area for several year. If you stop legally at the stop sign, in both travel scenarios, you cannot see. The standards and specifications need to be followed. He has installed protection for his garden. This strongly discourages the approval of the fence height variance

There was continued discussion regarding the intersection of Hillcrest and Hartig.

Mr. Matthews also reported that there was a change in the property line and a dedicated right-of-way was added which increases the intersection size.

Councilmember Broome questioned if the applicant would consider a regular deer fence and if they are wanting the fence for privacy.

Ms. Wang stated that they want privacy and protection from the deer. They would consider the deer fence. She also commented on the slope/grade of the property from the road.

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

Mayor Carlson stated that he is also familiar with this area as his in-laws live across the street. He does not agree with the six-foot fence limitation in agriculture areas. However, at this time, that is what is in the code. Council can either approve the request as submitted, keep the recommendation that Planning Commission voted on or deny the request.

Councilmember Broome questioned if the code would allow them to put an electric fence on top.

Manager Gillman stated that he would have to look into whether that is permissible or not.

It was moved by Councilmember Tedrow and seconded by Councilmember Boyd to affirm the Planning Commission's decision to approve the variance to allow an eight-foot fence subject to a condition limiting the portion of the fence exceeding six feet to only along Hartig Drive. Voting in favor, Councilmembers Tedrow, Boyd and Carlson. Voting against, Councilmember Broome.

## **Regular Meeting, Delta City Council, February 6, 2024 (Cont.)**

### **Delta Riverwalk Planned Unit Development (PUD) Sketch Plan**

Community Development Manager Joe Gillman stated that the subject request is for approval of a Sketch Plan for a new residential Planned Unit Development (PUD) subdivision to divide four existing parcels totaling approximately 38 acres into three acres for commercial land uses and 154 residential lots, each about 2,500 to 5,800 square feet in area, in addition to extending Gunnison River Drive and providing almost 17 acres of open space. A deviation to the standard road right-of-way and pavement widths is also included as part of the request. The subject properties are addressed as 519 and 595 State Highway 92 (SH 92) and include Assessor Account Nos. R014038, R011636, R023685, and R021579; they are located on the north side of SH 92 east of the terminus of Ute Street. The request is submitted by property owner and developer, Ranch and Farm Resources Management, LLC, and their representative, Ty Johnson, with Kaart Planning ("Applicant"). Based on review of the Sketch Plan and PUD criteria under Sections 16.04.050(C) and 16.05.050, respectively, it appears the subject request is generally capable of meeting the criteria for approval; however, the Applicant has chosen to delay providing a number of details until Preliminary Plat. Staff and the City of Delta Planning Commission recommend the City Council carefully consider approval of the Delta Riverwalk PUD Sketch Plan.

Mayor Carlson questioned what the discussion was regarding the open space.

Manager Gillman stated that the green space along the trail area would be maintained by the property owner and not the City. Discussion regarding transferring to the City will need to be handled in the future.

Chris Miller, 245 Columbia, representing the applicant. Stated a local project team has been working on the development of this property to benefit Delta.

There was extensive discussion regarding trail easements and the open space. Those discussions will continue and be part of the final plat.

It was moved by Councilmember Broome and seconded by Councilmember Tedrow to approve the Delta Riverwalk Planned Unit Development (PUD) Sketch Plan as recommended by the Planning Commission in their Resolution #A1, 2024. All in favor, motion carried.

### **Purchase of 2024 Budgeted Equipment & Vehicles**

Fleet and Facilities Manager Rod Myers summarized the purchases being considered this evening. The only vehicle that was not in the budget is the 2011 pickup as that is replacing a truck that was recently totaled by the insurance as a result of an accident.

There was discussion regarding the number of mowers at the golf course and if they can be used in other parks throughout the City. Most of the mowers are specific to golf course use.

It was moved by Councilmember Tedrow and seconded by Councilmember Boyd to approve the purchases as outlined in the amount of \$455,380.00 for the vehicles and \$84,334.51 for equipment. All in favor, motion carried.

**Regular Meeting, Delta City Council, February 6, 2024 (Cont.)**

**Ordinance #1, 2024; First Reading**

**Amending Chapter 8.24 of the Delta Municipal Code Declaring Gambling as a Public Nuisance**

City Attorney David McConaughy, reported that this ordinance will give some enforcement tools to address gaming in the City. He summarized the State gambling law. Staff has been receiving complaints about gaming devices that are game of chance and this ordinance address those types of complaints. This ordinance will declare a nuisance for gambling which will give tools to help with abatement.

ORDINANCE NO. 1, 2024

AN ORDINANCE OF THE CITY OF DELTA, COLORADO,  
AMENDING CHAPTER 8.24 OF THE DELTA MUNICIPAL CODE  
DECLARING GAMBLING AS A PUBLIC NUISANCE

was read by the Clerk.

It was moved by Councilmember Broome and seconded by Councilmember Tedrow to adopt Ordinance #1, 2024 on first reading. Roll call vote: Councilmember Broome, aye; Tedrow, aye; Boyd, aye and Carlson, aye. Motion carried.

**Memorandum of Understanding with the Delta Area Chamber of Commerce for the Delta Library Innovation Workspace**

City Manager Elyse Casselberry reported that this agreement is for the partnership with the Chamber at the Co-working/Makerspace location. The Chamber will have a dedicated area to conduct their business. They will work to drive more participants from businesses to use the co-working/makerspace area. She summarized the program. The City and Chamber will work together to offer business networking for our community. This agreement will run annually.

Councilmember Broome questioned if the City still pays dues to be a membership.

Manager Casselberry stated that the City is a member and will still need to pay the dues. The Chamber will pay the City the membership rate for the co-working space.

It was moved by Councilmember Boyd and seconded by Councilmember Tedrow to approve the Memorandum of Understanding with the Delta Area Chamber of Commerce for the Delta Library Innovation Workspace. All in favor, motion carried.

**Consideration of Request to Install a Cell Tower at Mountain View Ball Field and Lease Agreement Review**

Electric Department Manager Adam Suppes stated that staff has been contacted by Verizon Wireless regarding installing a new cell tower. They would like to install the tower near Mountain View Park on the north end of the northeast ball field. The pole would be for dual purposes, lighting for the field and the cell tower. The new tower will help address the lack of services in the area for Verizon Wireless. The lease agreement is for a five-year term with the amount being approximately \$14,400. Staff is looking for Council's approval to move forward if they are

## **Regular Meeting, Delta City Council, February 6, 2024 (Cont.)**

### **Consideration of Request to Install a Cell Tower at Mountain View Ball Field and Lease Agreement Review (cont.)**

interested so that Verizon can submit a site plan to be considered and to finalize the lease agreement.

It was moved by Councilmember Boyd and seconded by Councilmember Tedrow to direct staff to move forward with the request to install a cell tower near Mountain View Park. All in favor, motion carried.

### **Intergovernmental Agreement Between the City of Delta, CO and the Town of Paonia, CO for Inspection Services**

City Manager Elyse Casselberry stated that over the past couple of years there have been discussions with Cedaredge and Paonia regarding shared building services. The City has since worked with Paonia to draft an agreement that would put the City of Delta in partnership with Paonia to offer building services. Paonia would contribute \$2300/month for the use of building services. In the long-term, we may want to look at plan review as well. There is not a ton of work in Paonia and we have the capacity to offer these services.

Community Development Manager Joe Gillman believes it will be approximately ten hours a week which includes the travel time.

It was moved by Councilmember Boyd and seconded by Councilmember Broome to approve the intergovernmental agreement with the Town of Paonia for Inspection Services. All in favor, motion carried.

### **Letter of Support for the AARP's Age-Friendly Community Network**

Assistant to the City Manager Meganne Robinson reported that the City has an opportunity to work with AARP to become an Age-Friendly Community. The benefits will include the ability to receive grant funding through AARP.

Councilmember Broome questioned what this entails.

Ms. Robinson stated that this is just opting into the program at this time.

It was moved by Councilmember Carlson and seconded by Councilmember Tedrow to approve the letter of support in opting into the AARP Age-Friendly Community Network. All in favor, motion carried.

### **City Attorney Comments**

There were none.

### **Monthly Manager's Report/City Manager Comments**

The monthly manager's report was provided to the Council in their packets.

## **Regular Meeting, Delta City Council, February 6, 2024 (Cont.)**

### **Monthly Manager's Report/City Manager Comments (cont.)**

City Manager Elyse Casselberry reported that staff has met with CDOT regarding the 4<sup>th</sup> Street Hill project. Construction will begin this week with the full street being closed off starting Friday and will be closed for the duration of the project. She is excited about the Downtown Partnership group.

Councilmember Broome questioned the road closures.

Manager Casselberry stated that door hangers will go out to the area neighbors tomorrow, message signs are also being put up, social media posts and text my gov notices will also go out. A press release was issued last week as well.

Mayor Carlson would like to see more signs on 3<sup>rd</sup> Street where the new culvert was installed as it is rough through that area.

### **Councilmember Comments**

Councilmember Broome would like to see the City continue moving forward with getting communication to the State regarding the homeless problem and the laws that they have amended. The criminal reform needs to be fixed. He would like to contact other municipalities to get them on board as well. He wants staff to work with Russ Tyler on his concerns. He is excited about the Downtown Partnership group.

Councilmember Tedrow commented on the business watch program and encouraged business to sign up. He also commented on the library and the event this weekend. He encouraged everyone to get involved and stay involved. He appreciates staff for all they do.

Councilmember Boyd also thanked staff for all they do. She is grateful to see so many in attendance this evening. She is glad to see the 4<sup>th</sup> Street Hill project moving along. She will not be at the next meeting as she is going on vacation. She also commented on the alarm being set off at Garnet Mesa Elementary. She is very pleased with the response from the police department. She received an email from a citizen about the library not having an automatic door opener and would like to see that addressed. She is really looking forward to another Armory tour to see how the project is coming along. Support your local businesses.

Mayor Carlson provided an update on the water supply from Project 7. He thanked everyone in attendance this evening. He commented on the resignation of Ryan Crick and on the way Mr. Crick handled the situation. His stance on the situation is to allow the process to be followed and that is what is being done. He also commented on the 4<sup>th</sup> Street project. He thanked staff for their diligence on getting these projects completed. He encouraged everyone to stay positive and move forward.

### **Executive Session**

It was moved by Councilmember Carlson and seconded by Councilmember Tedrow 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); or more specifically for

**Regular Meeting, Delta City Council, February 6, 2024 (Cont.)**

**Executive Session (cont.)**

discussions regarding property located on the corner of 5<sup>th</sup> Street and Confluence Drive (parcel #3457240207003). All in favor, motion carried.

At 9:04 p.m., the Regular Meeting was recessed. The Executive Session was convened a short time later.

At 9:20 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, William Tedrow, and Mark Broome, as well as City Manager Elyse Casselberry, City Attorney David McConaughy and Electric Department Manager Adam Suppes. 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