

CITY OF DELTA, UTAH  
REGULAR CITY COUNCIL MEETING  
JULY 2, 2009

PRESENT

Gayle Bunker	Mayor
Robert Banks	Council Member
Kiley Chase	Council Member
Bruce Curtis	Council Member
John Niles	Council Member
Betty Jo Western	Council Member

ABSENT

Gregory Jay Schafer	City Recorder
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ALSO PRESENT

Kaela Jackson	City Attorney
Alan Riding	Public Works Director
Karen Johnson	Assistant City Recorder
Brent Rose	Magnum Energy, LLC
Craig Broussard	Magnum Energy, LLC
Rob Webster	Magnum Energy, LLC

Mayor Bunker called the meeting to order at 7:00 p.m. He stated that notice of the meeting time, place and agenda had been posted at the City Building and on the Utah Public Notice website, and had been provided to the Millard County Chronicle/Progress and to each member of the City Council at least two days prior to the meeting.

Council Member Betty Jo Western provided opening remarks following which Mayor Bunker led those in attendance in the Pledge of Allegiance.

MINUTES

The proposed minutes of a Regular City Council Meeting held June 18, 2009 were presented for consideration and approval. Following review, Council Member Kiley Chase MOVED to approve the minutes of the Regular City Council Meeting held June 18, 2009, as presented. The motion was SECONDED by Council Member Robert Banks. Mayor Bunker asked if there were any comments or questions regarding the motion. There being none, he called for a vote. The motion passed unanimously.

ACCOUNTS PAYABLE

The Council reviewed the accounts payable, a copy of which had been given to them two days prior to the meeting. Following review, Council Member Bruce Curtis MOVED to approve the accounts payable dated July 2, 2009, in the amount of \$48,940.06. The motion was SECONDED by Council Member Betty Jo Western. Mayor Bunker asked if there were any comments or questions regarding the motion. There being none, he called for a vote. The motion passed unanimously.

#### PUBLIC COMMENT PERIOD

There were no comments from the public.

#### UNFINISHED BUSINESS

There were no items of unfinished business on the agenda.

#### NEW BUSINESS

#### MAYOR GAYLE BUNKER: ORDINANCE ESTABLISHING A POLICY AND PROCEDURE FOR APPROVAL OF WRITTEN MINUTES OF CITY COUNCIL MEETINGS

Mayor Bunker noted that Council Members had just been provided a copy of the proposed ordinance and explained that the ordinance states what constitutes a meeting and how the minutes are to be recorded and written. Mayor Bunker stated that the time frame for approval of the minutes is changed by this ordinance. City Attorney Jackson stated that the ordinance is identical to what the new statute requires for approval of meeting minutes. The legislative session this year made it mandatory for every municipality to adopt an ordinance providing a policy for approval of Council meeting minutes.

Council Members requested additional time to study the proposed ordinance prior to adoption.

Following discussion, Council Member Betty Jo Western MOVED to table further discussion on this matter until the next meeting of the City Council. The motion was SECONDED by Council Member John Niles. Mayor Bunker asked if there were any comments or questions regarding the motion. There being none, he called for a vote. The motion passed unanimously.

#### DAVID DETTON, MAGNUM ENERGY, LLC: REQUEST FOR LEASE OF SURPLUS MUNICIPAL WATER FOR INDUSTRIAL USE

In the unexpected absence of Mr. Detton, Brent Rose, attorney for Magnum Energy, LLC, provided information regarding the proposed lease of surplus municipal water for industrial use. Mr. Rose indicated that representatives of Magnum Energy, LLC have been discussing this proposal with Mayor Bunker and Public Works Director Riding for several weeks. The proposal involves temporary transfer of the water to the Magnum Energy project site, located south across Brushwellman Road from the Intermountain Power Project north of Delta. The water will be used

for excavation of salt caverns for product storage. Utah law does not allow municipalities to sell, lease or dispose of water or water rights but does allow municipalities to lease water on a surplus basis. This gives the municipality the right to recall the water at any time it is needed for municipal purposes. Mr. Rose provided copies of a draft of a surplus water lease agreement for review by Council Members. The draft agreement provides for lease of 2,000 acre feet at a price of \$100 per acre foot, with the price being adjustable at the end of each renewal term. The draft agreement also provides that it is contingent upon approval by the Division of Water Rights to change the location and use of the water rights. The term of the agreement is for an initial period of five years with the option of extending the agreement for additional periods of five years if needed. Payment would be due to the city within thirty days of completion of the conditions identified in the agreement. Magnum Energy has the right to release back to Delta City as much water as it is determined is not needed and Delta City has the right to recall all or any part of the water supply at any time it is determined that the water is needed for municipal purposes. Magnum will pay all costs and expenses incurred in association with the agreement.

Council Members asked about the effect drilling this well will have on other wells in the vicinity. Mr. Rose stated that, before any well is drilled, there will be a great deal of testing done to make sure there is no impact on existing wells. In addition, the salt caverns will be so deep that the well will be much deeper than wells in the surrounding area.

City Attorney Kaela Jackson stated that the changes she had requested have been incorporated into the draft agreement. She mentioned it was her understanding that the lease price of \$100 per acre foot was contingent upon purchase of IPA water rights by Magnum Energy. City Attorney Jackson asked if that understanding was correct. Mr. Rose understood that lease of water rights from Delta City is completely separate from any proposed purchase from IPA. City Attorney Jackson had concern about executing the agreement without including language regarding purchase of IPA water rights because Magnum Energy would have no obligation to do so after the agreement has been executed. Mayor Bunker noted that a decision has not been made regarding forming a special service district for purchase of water and noted that there is an additional 500 feet of IPA water set aside for Delta City for culinary purposes. Over the years, Delta City has purchased a few feet each year to provide water service for those building outside the original city boundaries who are required to purchase water for their homes. Those individuals are able to purchase the water from the water bank set aside by IPA. Mayor Bunker felt that this matter needs to be addressed with regard to the agreement.

Council Member Betty Jo Western asked if Magnum Energy is leasing 2,030.23 acre feet from Delta City. Mr. Rose answered that the water rights identify 2,030.23 acre feet and they would be leasing 2,000. Council Member Western asked how much water Magnum Energy is leasing in total for the project. Mr. Rose stated that Magnum Energy will be looking at approximately 4,000 acre feet. Rob Webster of Magnum Energy indicated that they have met a number of people who are willing to lease water on a temporary basis so they do not anticipate having any problem obtaining the approximately 4,000 acre feet for the project. Mr. Webster indicated that Magnum Energy is very close to signing agreements with a number of individuals who have rather large shares they will

lease for the project.

Mr. Rose and Mr. Webster answered questions posed by Council Members regarding the proposed agreement. Other than a 12 ½ % up-front earnest money fee, the lease price will not be paid until all required licenses and permits have been issued so the project can go forward. Council Members felt the proposal was a win-win situation for both Delta City and Magnum Energy in that it provides funds for Delta City from a resource which is not being used and allows Magnum Energy to benefit from use of the resource.

Following discussion, Council Member Betty Jo Western MOVED to table further discussion of the proposed agreement for lease of surplus municipal water until the next meeting of the City Council. The motion was SECONDED by Council Member Bruce Curtis. Mayor Bunker asked if there were any comments or questions regarding the motion. There being none, he called for a vote. The motion passed unanimously.

#### MAYOR GAYLE BUNKER: FOURTH OF JULY CELEBRATION

Mayor Bunker asked whether all preparations for the Fourth of July celebration had been completed. Assistant City Recorder Karen Johnson and Public Works Director Alan Riding advised Council Members they had completed their lists of responsibilities. Council Member Western stated the Patriotic Program was ready. Mayor Bunker told Council Members that we need their assistance with the fish catch. The fish will be here at 12:30 p.m. and Public Works employees will have the pond filled with fresh water.

#### PUBLIC WORKS DIRECTOR ALAN RIDING: UPDATE ON PUBLIC WORKS PROJECTS

Public Works Director Alan Riding reported we had received the operating permit for the Ridge Top well. Public Works employees have been working to make Main Street and the park clean and nice for the Fourth of July. The young men from White River Academy will be here in the morning to replace rocks along the stream bed at the waterfall.

Public Works Director Riding noted that the speed display trailer was delivered today and Public Works employees put the trailer together and programmed it and it is now on the street. The trailer is easy to move and program and charges continuously through the solar panel. Public Works Director Riding invited Council Members to let him know where the trailer needs to be moved and public works employees will put it in place.

Council Member Niles stated he had noticed recent rains had eroded the fill dirt around the Ridge Top well water tank and asked if the soil would be replaced. Public Works Director Riding advised Council Members that soil would be replaced and lime fines will be hauled in to cover the soil and keep it in place.

OTHER BUSINESS

Mayor Bunker advised Council Members that he had visited with City Recorder Gregory Schafer in the hospital and he is doing better. He is in the Intensive Care Unit and has been there since Saturday, June 20<sup>th</sup>. Greg was extremely ill when he was admitted and the doctors told him that if he had waited another week before coming to the hospital, they would not have been able to save him. He will be out of the office for another month or so. City Office staff have been doing their best to accomplish the things which need to be done in his absence.

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Council Member Kiley Chase advised Council Members that the Library Board is looking for two new members. Board Members Bret Draper and Matt Williams have both resigned within the last two weeks. He asked Council Members to let him know if they were aware of anyone who would like to serve on the Library Board.

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Mayor Bunker asked if there were any comments, questions or other items to be discussed. There being none, Council Member Robert Banks MOVED to adjourn the meeting. The motion was SECONDED by Council Member Betty Jo Western. Mayor Bunker asked if there were any comments or questions regarding the motion. There being none, he called for a vote. The motion passed unanimously.

Mayor Bunker declared the meeting adjourned at 8:15 p.m.

  
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GAYLE BUNKER, Mayor

  
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GREGORY JAY SCHAFFER, MMC, City Recorder

MINUTES APPROVED: RCCM 07-16-09