

CITY OF DELTA, UTAH
REGULAR CITY COUNCIL MEETING
JULY 16, 2009

PRESENT

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

ABSENT

Robert Banks	Council Member
Gregory Jay Schafer	City Recorder

ALSO PRESENT

Kaela Jackson	City Attorney
Alan Riding	Public Works Director
Karen Johnson	Assistant City Recorder
Howard Western	City Resident
Joshua Davis	Boy Scout

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 John Niles 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 July 2, 2009 were presented for consideration and approval. Following review, Council Member Bruce Curtis MOVED to approve the minutes of the Regular City Council Meeting held July 2, 2009, as presented. The motion was SECONDED by Council Member Kiley Chase. 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 16, 2009, in the amount of \$155,912.30. 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

DAVID DETTON, MAGNUM ENERGY, LLC: SURPLUS WATER LEASE AGREEMENT FOR TEMPORARY USE IN SOLUTION MINING OF UNDERGROUND SALT CAVERNS

In the absence of Mr. Detton, Mayor Bunker and City Attorney Kaela Jackson discussed changes which had been made to the agreement discussed at the previous meeting. The changes included use of 1,800 acre feet of water, which can be adjusted up to 2,000 acre feet at the time the company is ready to use the water. Magnum Energy LLC wanted to provide a twelve and one-half percent down payment but have agreed to making a \$25,000 down payment, which would be twelve and one-half percent on 2,000 feet.

City Attorney Kaela Jackson indicated that the agreement now has the option for Magnum Energy, LLC to renew the agreement after the initial five year period. City Attorney Jackson had the agreement changed to allow for one renewal period of five years as opposed to the previous draft which provided for one or more renewal periods. In addition, the section regarding payment includes the stipulation that the lease price will be the greater of \$100 per acre foot or the highest amount paid by Magnum Energy for other privately owned water rights in the preceding six months. City Attorney Jackson pointed out that Delta City cannot opt out but Magnum Energy can opt to extend the agreement for an additional five years as long as they are paying either \$100 per acre foot or the same as they are paying for privately owned water rights. City Attorney Jackson has discussed this provision with Mr. Detton but they are not willing to change that stipulation. City Attorney Jackson told Council Members that they need to determine if they are willing to lock in the price for ten years at \$100 per acre foot or whatever Magnum Energy is paying for privately owned water rights. City Attorney Jackson stated that she had asked Magnum Energy to change the agreement to a lease agreement rather than a purchase agreement but they were unwilling to make that change. City Attorney Jackson advised Council Members that it was their decision whether to enter into the agreement but her opinion was that it should be a lease agreement rather than a purchase agreement.

Mayor Bunker indicated that we have no idea whether the price of water will go up or down in the next five years but the price of agricultural water probably has a greater chance of going down than it does of going up. Mayor Bunker advised Council Members that Mr. Detton had been told that Delta City will not accept a price lower than \$100 per acre foot for the first or second term of the agreement. Because Mr. Detton agreed to that price, he is unwilling to agree to any other changes

in the agreement. Mayor Bunker noted that those who have well water for agricultural use will only get paid for sixty-five percent of an acre foot because agricultural well water is sixty-five percent consumption.

Mayor Bunker stated he would like the agreement to set the price for water in the renewal period on the basis of the current price rather than on the price during the six months immediately preceding the date of renewal. Council Member Western stated she would like to see us lock into the agreement for five years rather than for ten years. Mayor Bunker advised Council Members that Magnum Energy must be able to prove they have water for a ten year period in order to get financing for the project. City Attorney Kaela Jackson stated that Magnum Energy is willing to make it a five year term if we agree to take out the \$100 minimum price. Council Member Chase reasoned that inasmuch as the excess water is not in high demand and we have the right to take the water back at any time it is needed for municipal use, we are protected and making use of a resource that is currently being held in surplus. Mayor Bunker asked if Council Members wanted to agree to lease of the water for a five year term with an option to renew for an additional five year period at a rate of \$100 per acre foot or the price being paid to private water right holders, whichever is greater.

Mayor Bunker stated that Magnum Energy has provided a check in the amount of \$25,000 as earnest money on the agreement. This amount will be applied toward the initial annual lease price. Section E states that within a year from the date of signing, if Magnum Energy is not prepared to use the water, they will provide an additional payment of \$25,000, to be applied toward the first year payment and the initial \$25,000 payment will belong to Delta City. These payments will occur each year that the company is not prepared to use the water and if, at the end of the five year period, they are still not ready to use the water, the \$25,000 per year will be retained by Delta City and the contract will dissolve. City Attorney Jackson suggested that language in this same section of the agreement be added to clarify that if the agreement has not gone into effect within five years the agreement terminates.

Council Member Western asked where the funds would be applied that will be received from this use of surplus water. Mayor Bunker stated that Council Members had discussed using the funds for the museum / community center construction but a final decision has not been made.

Following discussion, Council Member Bruce Curtis MOVED to approve execution of the Surplus Water Lease Agreement with Magnum Energy, LLC with the two corrections discussed in determining the price per acre foot of water for the renewal period and adding language clarifying that if the water is not put to use within an additional four years, the agreement terminates. 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 with Council Members Kiley Chase, Bruce Curtis, and John Niles voting yes and Council Member Betty Jo Western voting no.

MAYOR GAYLE BUNKER: ORDINANCE NO. 09-243 ESTABLISHING A POLICY AND

PROCEDURE FOR APPROVAL OF WRITTEN MINUTES FOR THE PUBLIC MEETINGS OF THE DELTA CITY COUNCIL AND OTHER PUBLIC BODIES

Mayor Bunker introduced the following ordinance:

ORDINANCE NO. 09-243

AN ORDINANCE ESTABLISHING A POLICY AND PROCEDURE FOR THE APPROVAL OF WRITTEN MINUTES FOR THE PUBLIC MEETINGS OF THE DELTA CITY COUNCIL AND OTHER PUBLIC BODIES OF DELTA, UTAH

Mayor Bunker questioned whether there is a time frame in which meeting minutes must be approved. City Attorney Jackson stated that if the minutes are not approved at the next meeting, they are automatically approved.

Following discussion, Council Member Kiley Chase MOVED to adopt Ordinance No. 09-243, an ordinance establishing a policy and procedure for the approval of written minutes for the public meetings of the Delta City Council and other public bodies of Delta, Utah. 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 roll call vote. The vote was as follows:

Robert Banks	Absent
Kiley Chase	Yes
Bruce Curtis	Yes
John Niles	Yes
Betty Jo Western	Yes

The motion passed unanimously.

MAYOR GAYLE BUNKER: PROPOSED ORDINANCE REGARDING DOGS IN CITY PARKS

Mayor Bunker noted that this item had previously been discussed but a decision had not been made on whether to allow or to ban dogs in city parks. Mayor Bunker requested that Council Members further discuss the matter at this time. Mayor Bunker stated that his opinion was to ban dogs in city parks. Council Member Chase noted that Council Members had previously discussed requiring dogs to be on a leash and that owners clean up after their dogs, with the city posting signs and providing disposal bags. Council Members did not want to give the impression that they do not care about dogs nor do they want to let a few people ruin use of the park by everyone. Mayor Bunker felt that leash laws and having owners clean up after their dogs will become a difficult policing problem. Council Member Niles felt that if there were adequate signs and city employees in the area, most people will be conscientious about obeying the signs. Council Member Western stated that many of the dogs belong to local residents rather than to tourists and visitors. Most tourists know that when you come into a park you are expected to clean up. Public Works Director Riding indicated that he had

recently seen three out of state vehicles stop at the park with a total of seven dogs which they turned loose in the park to relieve themselves. There are also some local people who bring their dogs to the park every day to allow them to relieve themselves. Public Works Director Riding believes that it is a mix of both local and traveling dogs. He suggested posting a few signs around the park and providing a "doggie station" and disposal supplies in a separate area near the park.

Mayor Bunker noted that the matter was on the agenda for discussion and it was not necessary to make a decision at this meeting. He suggested that the matter be discussed further at the next meeting.

MAYOR GAYLE BUNKER: FOURTH OF JULY CELEBRATION

Mayor Bunker stated that he had received many positive comments on the celebration this year. Several people told him the crowd was the biggest they had ever seen in the park. Mayor Bunker did not like the performers stopping the parade to perform. Mayor Bunker told Council Members that office staff had discussed the possibility of having jeep posse members park their vehicles in the intersections and use four-wheelers to patrol and keep people away from floats and vehicles during the parade. Council Member Chase noted that the fencing around the fish pond worked really well. Council Member Western indicated that some parents had asked if we could have bleachers around the fish pond so adults could watch children catching the fish. Council Member Niles heard negative comments about dancers getting off of floats to perform and taking too much time.

Council Member Western had some vendors approaching her in the park complaining that they didn't know where their booth space was. Council Member Western advised them that their names were on stakes showing where their space was. Council Member Western suggested the possibility of having a short vendor application for vendors to fill out to reserve booth space and charging a small amount, perhaps \$25, for the booth space. Mayor Bunker suggested that vendors could be required to come in and obtain a permit for booth space and we could have a copy of the vendor booth map posted in the park.

Council Member Niles felt the fireworks were excellent and the new ignition system worked very well.

PUBLIC WORKS DIRECTOR ALAN RIDING: UPDATE ON PUBLIC WORKS PROJECTS

Public Works Director Alan Riding reported that all of the preparations for the Fourth of July celebration were put up and taken back down, the park has been cleaned up and everyone felt that it was a very good celebration. Mayor Bunker expressed appreciation to the public works employees for how quickly and efficiently they cleaned up the park on the afternoon of the Fourth of July.

Council Member Bruce Curtis asked why parts of the park were extremely wet on the Fourth of July. Public Works Director Riding stated that the rain had soaked the park just prior to the celebration and new sod had been put down in some areas and it needed to be kept wet.

Public Works Director Riding told Council Members that the public works employees take great pride in the work they do in preparation and clean up for the Fourth of July celebration.

There was a water leak on the afternoon of July 4th where some bolts rusted off of a couple of water valves. We are currently waiting for special bolts to be delivered and installed prior to re-covering the valves. Public Works Director Riding reported that the valve was shut down and repaired without having any flood damage to homes.

Public works employees have been cleaning sewer stations, working on water lines and valves and attempting to finish upgrades to the system so the water pressure can be raised back to the level they want.

OTHER BUSINESS

Mayor Bunker advised Council Members that he has been thinking about canceling the New Year's Eve celebration this year due to current economic conditions. Our sales tax revenues keep dropping and canceling the celebration would save \$8,000 - \$10,000. Mayor Bunker asked Council Members to think about this idea. A decision is not necessary at this time.

Mayor Bunker stated that the candidate filing period for municipal elections closed at 5:00 p.m. on Wednesday, July 15th and with four candidates filing for the two four-year Council Member terms. The candidates are: Ralph Newberry, Betty Jo Western, Kiley Chase, and Tom Stephenson. Mayor Bunker will run unopposed and Council Member Niles will run unopposed for his two-year Council Member term. There will not be a primary election inasmuch as no more than four candidates filed to fill the two positions available.

Mayor Bunker told Council Members that City Recorder Gregory Schafer had gone into surgery yesterday to have his wound closed. Doctors are still saying he will be hospitalized for an additional six to eight weeks. Mayor Bunker complimented city office staff for keeping the work done in Greg's absence.

Council Member Kiley Chase reported that he had been asked by a citizen if we are allowing water trucks to fill from city water hydrants without paying. Public Works Director Riding responded that those who are filling from water hydrants are paying for the water they use by the load. We also have four hydrants with meters for use in filling water trucks.

Council Member Betty Jo Western asked if the Millard County Fair could use one of the tents for shade at the fair next month. Council Member Western is in charge of the County Fair and planned to purchase tents but is unable to purchase them this year due to budget cuts. Council Members did not have any problem with allowing Millard County to use the tent for the fair.

Mayor Bunker asked if there were any comments, questions or other items to be discussed. There being none, Council Member John Niles 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.



GAYLE BUNKER, Mayor



GREGORY JAY SCHAFFER, MMC, City Recorder

MINUTES APPROVED: RCCM 08-06-09