



## DELTA CITY COUNCIL REGULAR CITY COUNCIL MEETING

Thursday, April 5, 2018  
Delta City Municipal Complex Council Chambers  
76 North 200 West  
Delta, Utah 84624-9440

### PRESENT

John W. Niles, Mayor  
Kiley J. Chase, Council Member  
J. Travis Keel, Council Member

Nicholas W. Killpack, Council Member  
Betty Jo Western, Council Member

### ABSENT

Robert W. Banks, Council Member

### ADDITIONAL PRESENT

Gregory J. Schafer, Admin. Officer/Recorder  
Todd F. Anderson, City Attorney  
Dent R. Kirkland, Public Works Director  
Travis L. Stanworth, Asst. Public Works Dir.  
Lynn B. Ashby, Fire Chief

Barbara J. Clark, Chronicle-Progress  
Richard D. Jacobson, Oak City Resident  
Gayle K. Bunker, City Resident  
James Young, City Resident  
Donald W. West, America's Clean Energy

Mayor Niles called the meeting to order at 7:00 p.m. He stated that notice of the time, place and the agenda of the meeting had been posted at the City Municipal Complex, on the Delta City website, on the Utah Public Notice website and had been provided to the Millard County Chronicle-Progress, LLC, and to each member of the City Council at least two days prior to the meeting. Mayor Niles conducted roll call. Council Member Keel offered the opening remarks. Mayor Niles then led those in attendance in the Pledge of Allegiance.

### **MINUTES**

The minutes of the Regular City Council Meeting held March 1, 2018 were presented for approval. Council Member Keel MOVED to adopt the minutes of the Regular City Council Meeting held March 1, 2018 as presented. The motion was SECONDED by Council Member Western. Mayor Niles asked if there were any questions or comments regarding the motion. There being none, he called for a vote. The motion passed with Council Member Chase, Council Member Keel, Council Member Killpack and Council Member Western in favor and Council Member Banks absent.

### **ACCOUNTS PAYABLE**

The Council reviewed the accounts payable, payroll and electronic transactions for the period ending April 5, 2018 in the amount of \$286,887.93. Council Member Killpack MOVED to approve

the payments disbursed dated April 5, 2018 in the amount of \$286,887.93. The motion was SECONDED by Council Member Chase. Mayor Niles asked if there were any questions or comments regarding the motion. There being none, he called for a vote. The motion passed with Council Member Chase, Council Member Keel, Council Member Killpack and Council Member Western in favor and Council Member Banks absent.

#### **PUBLIC COMMENT PERIOD**

Richard D. Jacobson, Oak City resident, and currently the Captain and Chief Deputy Officer with the Millard County Sheriff's Office (MCSO) came before the Council to introduce himself and inform them that he is running for the office of the Millard County Sheriff.

#### **BUSINESS**

##### **Request for Prepaid Ground Leases on Municipal Airport Property**

Donald West, Managing Member and Chief Executive Officer of America's Clean Energy, LLC, informed the Council that he had been working on his proposed project for approximately six years and that he has been seeking and still hopes to receive assistance from the Millard County Commission for an industrial revenue bond to construct this major project. Mr. West stated that he wants to build a pilot plant to demonstrate the technology that his company has developed over the years to clean up coal ash. Mr. West informed the Council that he intends to try and utilize the Delta Municipal Airport and would like to help underwrite the runway extension and property improvements that would help our airport be reclassified from a Class II to a Class IV municipal airport in the Federal Aviation Administration's (FAA) classification system. Mr. West stated that subject to receiving funding, his company would be ready to, immediately, provide the initial funding of \$10,000 to begin engineering services and then an additional \$100,000 in approximately July 2018 which would also help pay for the continued design engineering for the runway expansion which has been approved by the FAA. Mr. West continued, saying, that ultimately an additional \$2,000,000 to aid with the actual work for the expansion would be forthcoming. Mr. West told the Council that his company is looking for a place to locate the plant and that in his discussions with the City it seemed a reasonable consideration to locate upon the Municipal Airport property for this proposed venture.

Mr. West reviewed a PowerPoint presentation for the benefit of the Council. Within his presentation, Mr. West pointed out that the proposed building that has been designed for his company would be 2,500 square feet with a roof height, sloping from 32 feet at its highest down to 22 feet. Mr. West went into greater detail about how the coal ash-cleaning plant would operate and look. Council Member Chase asked where the plant would acquire the necessary electrical power to run its proposed one-megawatt furnace. Mr. West stated that they would be working with Rocky Mountain Power to supply the amount of power needed. Mr. West stated that the plant could conceivably employ from six to twenty-five people. West indicated he would use local contractors, to the extent he could for the pilot plant construction, and that they will

hire and train as many local people as they can. There was a conversation about what would be going in and coming out of the furnace.

Mr. West informed the Council that he is wanting to get this project up and going and is approaching the City to see if the City would be willing to hold discussions with his group and work-out a prepaid 15-year lease for the plant site and a prepaid 25-year lease on their hangar; with renewal options every five years, in exchange for their helping with airport improvements. Council Member Chase asked if they had any firm commitments from any company as far as providing coal ash. Mr. West stated that he had not, but he has been discussing it with a company and they are interested. Council Member Chase stated that he found it odd that Mr. West has been told that Intermountain Power Service Corporation (IPSC) is not interested. Mr. West clarified that IPSC is not disinterested, they are just not interested in it until they their deal with Magnum Holdings is settled. There was a discussion about whether IPSC would be staying with the use of coal or transitioning to natural gas use for the generation of electricity. Council Member Chase voiced his concern about the City making a commitment without any actual commitment from a company to provide coal ash. Mr. West stated that it is a concern for him as well, but assured the Council that he would make sure that, once he has the project funds in place, that he would have a commitment from a company for the provision of coal ash.

City Attorney Anderson informed the Council that his concern is that while Mr. West is offering \$10,000 now and \$100,000 in approximately July 2018, and currently wants approval to lease the land, the only reason that the City would be interested in participating is for the \$2,000,000 because the engineering work would be useless to the City until the actual enhancements and reconstruction of the runway occurs, which, at present has no certain date. Mr. West stated that he is waiting for Airport Development Group, Inc. (ADG) to get him a project budget construction timeline. Mr. West requested that he receive a letter of intent from the City which would indicate our willingness to enter in discussions regarding the leases, subject to a number of terms, such that he can take it to a group of investors and prove that any interest is simply a figment of his imagination. Mr. West stated that there is a group in the Chicago, Illinois area that is interested in building the first plant with along with PacifiCorp (Rocky Mountain Power's parent company) and that they minimally lend or invest in projects of \$2-500,000,000 range and they would not want to be involved in the smaller deal, but were informed that you need to start with the smaller projects.

Council Member Western noted that Mr. West is America's Clean Energy's CEO, and asked how long that company has been in business. Mr. West stated that America's Clean Energy was formed a little over ten years ago and that it is a family entity. Council Member Western asked if this was America's Clean Energy's first time proposing an undertaking of this nature. Mr. West stated that he has had a contract with Los Angeles, California's Sanitation Bureau, in writing, to perform municipal solid waste conversion, and, due to change in general managers, the contract was never carried out. Mr. West listed a couple other contracts that fell apart and stated that municipal dealings are very complex which is why he has decided to move into the mining sector. Council Member Western asked if there were any other companies out there doing the same

thing. Mr. West informed her that as far as he knows there is no other company doing exactly what his is doing, but there are probably 32 different processes to pelletize and try to dispose of these materials (coal ash).

Council Member Killpack asked what byproducts his company would be producing from the coal ash. Mr. West informed him that they could conceivably include insulation, ceiling tiles, ceramics, and other products. Mayor Niles informed Mr. West that they would think on the subject more and when he gets his funds, they will continue from there. Mr. West asked if he could receive an expression of the City's interest and willingness to go forward with the project subject to everything discussed so that he can give him something to show to the potential lenders. Mr. West then thanked the Council for their time.

**Public Employees Health Program (PEHP) Fiscal 2019 Premium Rates**

Administrative Officer/Recorder Schafer presented the insurance premium rates from PEHP for the ensuing Fiscal Year 2019. Mr. Schafer reviewed the information with the Council that he had received through communication with Derelys Patrick, our Senior Advisor with NPS Benefits, our insurance broker. Ms. Patrick had said that in the current market, it would be in the City's best interest to stay with PEHP. Schafer reviewed the cost and rate changes in the tables he provided in the meeting packet and asked the Council of their pleasure on the topic. Council Member Chase stated that he thinks PEHP is the best health insurance product for our municipality and in reading the electronic mail from Ms. Patrick, that he does not see a point in attempting to change our health insurance company. Council Member Chase suggested approving the renewal of our existing benefits plan, and then discussing it in further detail at the budget session meeting later in the year. Mayor Niles and Council Member Western agreed that staying with PEHP would likely be in the best interest of the City. Council Member Chase MOVED to continue with PEHP and approve the fiscal year 2019 rate increase. The motion was SECONDED by Council Member Western. Mayor Niles asked if there were any questions or comments regarding the motion. There being none, he called for a vote. The motion passed with Council Member Chase, Council Member Keel, Council Member Killpack and Council Member Western in favor and Council Member Banks absent.

**Resolution Number 18-421, Appeal Authority Appointment**

Public Works Director Kirkland informed the Council that there are some citizens that are looking at doing some construction on their home and they are already encroaching on the setbacks and want to appeal Public Works Director Kirkland's decision to deny the building permit application. Public Works Director Kirkland stated that he had been speaking to City Attorney Anderson and that Lawrence Hunt, who had previously handled all the City appeals since December 2012, in the interim had moved to Hurricane, and as such, the City would have to pay for travel time as well as his hourly rate for services provided. Public Works Director Kirkland continued that he and City Attorney Anderson had come up with a list of other people capable of reviewing appeals and had pared down that list with the assistance of Mayor Niles, and that they ultimately had settled upon the consideration of Adam Richins to handle this case and other such cases.

Mayor Niles stated that they had tried to discourage this couple from seeking a variance because they are next to impossible to receive, but the couple is wanting to pursue the matter and are willing to pay for its consideration. Public Works Director Kirkland stated that they had not yet filled out the application and paid the non-refundable fee, but that they are aware of them and have expressed that they are still wanting to proceed. Council Member Western asked Mr. Richins if he has handled such matters before. Mr. Richins confirmed that he had. Council Member Killpack asked how often appeals occur. Public Works Director stated that this is the first time one has happened in the three years that he has been the Public Works Director and maybe the second one that has happened in the time that he has worked for Delta City. Mayor Niles stated that years ago, there was a variance board and that the position was designated to a qualified individual. City Attorney Anderson stated that it is a legal decision, not a political decision, so it was taken out of the political body, which is why the City has historically used an attorney, but Mr. Richins is aware of the law. Council Member Keel **MOVED** to adopt Resolution 18-421, appointing an appeal authority (Adam Richins) for Delta City. City Attorney Anderson asked about the Resolution saying that it was numbered 18-422 and Recorder Schafer stated that he had noticed that the correct number was 18-421. The motion was **SECONDED** by Council Member Chase. Mayor Niles asked if there were any questions or comments regarding the motion. There being none, he called for a roll call. The motion passed with Council Member Chase, Council Member Keel, Council Member Killpack and Council Member Western in favor and Council Member Banks absent.

#### **Fleet Vehicle Acquisition Request**

Public Works Director Kirkland informed the Council that the Public Works Department would like to purchase another service truck keeping with their current rotation schedule of vehicles. Mr. Kirkland indicated there was currently an unused appropriation of \$50,000.00 in the Sewer Fund's Equipment Upgrades budget line item (52-40-930) in the current year budget. Kirkland stated that if he used this appropriation to purchase a new vehicle this year, he could again budget for purchasing other necessary equipment in the Fiscal Year 2019 budget. Kirkland informed the Council that this year he acquired specifications from a Utah State Contract and then also provided said specifications to our local Chevrolet dealership to determine if their pricing would come within five-percent and be able to be awarded the purchase under Delta City's current Purchasing Policy provisions. City Attorney Anderson noted that if the truck were acquired locally, the vehicle would also have local warranty services. Council Member Keel **MOVED** to approve the fleet vehicle acquisition request of a 2019 Chevrolet Silverado 3500HD 4WD Double Cab from Droubay Chevrolet in the amount of \$35,080 with the addition of applicable fees. The motion was **SECONDED** by Council Member Killpack. Mayor Niles asked if there were any questions or comments regarding the motion. There being none, he called for a vote. The motion passed with Council Member Chase, Council Member Keel, Council Member Killpack and Council Member Western in favor and Council Member Banks absent.

#### **Possible Sale of City-Owned Individual Aircraft Hangars**

Public Works Director Kirkland reviewed that this is the continuation of the proposed topic on the sale of individual aircraft hangars, currently owned by the City, that was last discussed at the

February 15, 2018 Council Meeting. Public Works Director Kirkland stated that he has not received any feedback from any of the pilots since the last meeting's discussion. Council Members noted that they had not heard from any of the pilots either. Council Member Western stated that she had been approached by one pilot who felt that the hangar in use by him should be donated to him for all of the work that he had done to it. Council Member Western said that the work that they had done to it was appreciated, but that an ownership transfer does not work that way under Utah State law. Mayor Niles stated that while at the Utah Airport Operators Association (UAOA) conference in Moab in late February, that a lot of the other municipal airport operators present could not believe the very-low rates that Delta City was charging for the aircraft hangars and none of them had charged rates that low in the last thirty years and that if the airport does lease the hangars they still do a ground lease. Mayor Niles stated that the other municipal airports even charge a fee for pilots to tie-down their airplanes on their aprons and that they had been told by the state director that if the City was being a good steward of the airport, they would do anything in their power to generate revenue on every square foot of the property located there. Public Works Director Kirkland stated that he thought that if the City does not sell the hangars, then they should, minimally increase the rates. Public Works Director Kirkland informed the Council that he had gone into a hangar to do maintenance and the tenant had gone through and pointed out what maintenance needed to be done and that the City had never been notified of what maintenance was deemed necessary. Mayor Niles stated that the pilots would likely perform better upkeep of the hangars if they owned them.

The Council discussed that the hangars would need to be put up for bid. Council Member Western asked what most of the other airports are charging for their average lease rate. Public Works Director Kirkland stated that they are charging 25 or 30 cents per square foot. There was a discussion about bringing in enough money to pay for the airport maintenance at the airport like lighting and plowing since the FAA money is for specific projects only.

City Attorney Anderson informed the Council that if they are going to sell the hangars, they would need to declare which hangars will be surplus and set the process by which they want to sell them, since the City does not have a surplus property policy, within commercially reasonable means. Council Member Killpack asked what the due process is for publishing the sale of property. City Attorney Anderson stated that that was what the Council would need to decide tonight, provided it is commercially reasonable. It was discussed that the current hangar renters would need to be given notice of the selling of the hangars before it is opened-up for bidding and whether the hangars would be sold with tenants. The hangar that the City is keeping was discussed. Council Member Keel MOVED to declare three hangars at the airport owned by Delta City, designated by the Mayor and Public Works Director Kirkland, to be sold at an auction, to the highest bidder, in the form of a sealed bid, with the City's option to reject any or all bids. This will be posted in the Millard County Chronicle-Progress and on the Delta City website for 10-14 days, and that bids will be accepted within 15 days of the initial publishing, and tenants will be given notice of the intent to sell the property. The motion was SECONDED by Council Member Killpack. Mayor Niles asked if there were any questions or comments regarding the motion. There being none, he called for a vote. The motion passed with Council Member Chase, Council Member Keel,

Council Member Killpack and Council Member Western in favor and Council Member Banks absent.

#### **Municipal Airport Ground Lease Rates**

Public Works Director Kirkland stated that he felt that ground-lease rates be determined before the hangars get sold, but he thinks that the contracts need to be adjusted first too. There was question about whether the contracts can be adjusted. City Attorney Anderson stated that they can be adjusted according to the Consumer Price Index (CPI). There was a discussion about how rate increases would need to be balanced. Council Member Killpack stated that he thinks that the agreement is beneficial to the City, but he felt that the ground lease price should be put high enough that it should not become a problem again in the near future. There was a discussion about how the change to ground lease rates would apply to future contracts, but not the two hangars that are leased currently, unless they sell. Council Members agreed that they are wanting the ground lease rates to be of fair market value. City Attorney Anderson stated that the City would have to lease the hangar and a buffer zone/setback of about 10 feet, he would have to double-check what that setback should be. Public Works Director Kirkland informed the Council that Spanish Fork City charges \$.31 cents a square foot, but are changing to \$.33 or \$.35, Nephi City charges \$.30 a square foot for improved or \$.15 cents a square foot for non-improved, Richfield City charges \$.30 cents a square foot for commercial or \$.18 cents for non-commercial and the hangars that they own rent out are \$3,600.00 a year, Monticello City charges \$.10 cents a square foot, and Roosevelt City charges \$.25 cents a square foot. There was a discussion about how the other airports compare to Delta's. City Attorney Anderson stated that Delta Municipal Airport ground lease rates had gone up 2/10 of a percent from calendar years 2012-2018. It was agreed that City Attorney Anderson would check into lease term provisions offered by other cities. Council Member Western MOVED to TABLE the municipal airport ground lease rates. The motion was SECONDED by Council Member Chase. Mayor Niles asked if there were any questions or comments regarding the motion. There being none, he called for a vote. The motion passed with Council Member Chase, Council Member Keel, Council Member Killpack and Council Member Western in favor and Council Member Banks absent.

#### **Public Works Activities**

Public Works Director Kirkland informed the Council that while he and Mayor Niles attended the UAOA conference, they met with FAA officials, engineers, etcetera, and had been told that they would not be getting any funding for the airport improvements this year, so suggested that we wait until the next year to bid out the project. On the other hand, Director Kirkland stated that he had been informed to watch the progression of Federal legislation, that if approved by both Houses of Congress, would appropriate \$1 billion dollars, specifically for rural airports across the United State of America. Should that funding be approved, we would need to have our project shovel-ready and readied to seek project bids as our project could conceivably go forward this year. Kirkland stated that the Public Works Department has been working on crack-sealing, spraying weeds, burning ditches, working in our parks, sweeping the streets, working toward readying for the demolition of the former Deseret Industries structure. Public Works Director Kirkland stated that the Intermountain Power Service Corporation (IPSC) has made surplus and



donated a 2002 Ford F250 4WD Regular Cab Long Bed and sprayer to the City. Mr. Kirkland reminded the Council that in consideration of Michael Jeffery no longer working for the City, Austin Albers has been moved up in the pager rotation in the Public Works department. We have advertised for seasonal labor, and hope to hire two part-time employees for the season. Kirkland stated that he had spoken with many other airports operators and that most of them have a vehicle available for pilot use at their airports and he thinks it would be a good idea to get for use at the Delta Municipal Airport. City Attorney Anderson asked if there would be a mechanism to make sure that a pilot is the one driving the car rather than, say, "joy-riding teenagers" so that we could insure the vehicle. Kirkland stated that there are locking mechanisms to store the keys of a vehicle within, which would help to ensure that it is only being used by visiting pilots who are aware of a given code used at our airport facility.


#### **Other Business**


Mayor Niles asked the Council to give consideration of Grand Marshal candidates for our annual Independence Day celebration. The Council was reminded that this year's celebration theme is "Some Gave All." Mayor Niles also noted to the Council that Admin. Officer Schafer was approached by the Delta Area Chamber of Commerce staff asking for a new commercial vacuum sweeper to more timely maintain the carpeting within the R. J. Law Community Center. The Council consented for Mr. Schafer to purchase a vacuum suitable for use in the facility.

Mayor Niles asked if there were any comments, questions or other items to be discussed, there were none. Council Member Chase MOVED to adjourn the City Council meeting. The motion was SECONDED by Council Member Western. Mayor Niles asked if there were any questions or comments regarding the motion. There being none, he called for a vote. The motion passed with Council Member Chase, Council Member Keel, Council Member Killpack, and Council Member Western in favor and Council Member Banks absent.

The meeting was adjourned at 8:59 p.m.



  
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JOHN WESLEY NILES  
MAYOR

  
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GREGORY JAY SCHAFFER, MMC  
ADMINISTRATIVE OFFICER/RECORDER

MINUTES APPROVED: 04/19/2018