



Council may take formal action on any item appearing on this Agenda. However, formal action WILL NOT be taken at this meeting on any item of business first identified during the course of the meeting as a change to the Agenda, other business, or Citizen, Councilmember and Staff Comments.

## **A G E N D A**

**Delta City Council  
Regular Meeting**

**May 17, 2016  
7:00 p.m.**

- A. Pledge of Allegiance**
- B. Changes to the Agenda**
- C. Minutes**
- D. Citizen Comments**
- E. Authorization of Letter to Governor Requesting a Veto on HB16-1309**
- F. Consider Authorizing the Filing of a Lawsuit Regarding Recreation Center Snack Bar Lease**
- G. Ordinance #5, 2016; First Reading  
Rezone of 618 & 620 Bridge Street**
- H. City Attorney Comments**
- I. City Manager Comments**
- J. Councilmember Comments**

Item A:

**Pledge of Allegiance**



Item B:

**Changes to the Agenda**

Mayor Ed Sisson called the meeting to order at 7:00 p.m. Also present were Councilmembers Ron Austin, Bill Raley, Gerald Roberts and Christopher Ryan along with City Manager David Torgler. A meeting notice was posted 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**

The Clerk advised that the agenda was amended May 2, 2016 to add rescheduling of the June 21, 2016 meeting. She also stated that the executive session needs to be removed.

### **Minutes**

Councilmember Roberts reported two changes:

- Under special events permit the Mayor closed the public hearing and reconvened the regular meeting.
- The motion for the weed abatement should include that the contract is for two years and the cost is \$26,500 per year.

It was moved by Councilmember Roberts and seconded by Councilmember Raley to approve the minutes of the April 19, 2016 regular meeting with the corrections as stated. All in favor, motion carried.

### **Citizen Comments**

There were none.

### **Delta County Library District Update**

Lea Hart, District Director of the Delta County Library District, presented an update on the library district.

### **Oil/Gas Lease Exchange Discussion with Scott Tipton's Office**

Brian Meinhart, Regional Director and Policy Advisory for Congressman Scott Tipton, provided information regarding the Bureau of Land Management (BLM) currently reviewing 65 oil and gas leases located on the White River National Forest after a 2007 ruling by the Interior Board of Land Appeals found a National Environmental Policy Act (NEPA) deficiency on three of them. It was found that while the Forest Service (USFS) had conducted NEPA analysis with the help of BLM, BLM never formally adopted the analysis prior to issuing the leases.

In the meantime, the White River NF recently adopted a planning amendment for oil and gas which would prohibit new leasing and development in an area known as the Thompson Divide, and impose new restrictions elsewhere in the forest. BLM is using this amendment as a

## **Regular Meeting, Delta City Council, May 3, 2016 (cont.)**

### **Oil/Gas Lease Exchange Discussion with Scott Tipton's Office (cont.)**

baseline to propose cancelling the leases in the Thompson Divide and imposing new stipulations to many of the remaining leases.

The two companies whose leases are under threat of cancellation have proposed to voluntarily relinquish their existing leases in exchange for new leases of equal value elsewhere. One company has proposed new leases in Rio Blanco County, and the other has proposed an area that lies primarily within Delta County, with a significant portion in Mesa County, and a small fraction in Gunnison County.

They are currently in the process of getting feedback on this idea, and have put together a discussion draft so folks have something tangible to comment on. Given that Delta County could potentially receive new oil and gas leases in an exchange, we're very interested to hear what the City of Delta and the other communities have to say.

There was discussion regarding the process moving forward.

Mr. Meinhart stated that any feedback can be forwarded via email in a form of an official letter. They are not asking for any type of endorsement at this point.

### **Colorado Parks and Wildlife Special Event Request**

The Clerk reported that the Colorado Parks and Wildlife is requesting a special event to allow for the use their shooting trailer within the City of Delta. The trailer is used for various events throughout the community to include hunter safety classes.

It was moved by Councilmember Raley and seconded by Councilmember Austin to approve the special event for the Colorado Parks and Wildlife. All in favor, motion carried.

### **Reschedule the June 21, 2016 City Council Regular Meeting**

The Clerk stated that the regular City Council meeting scheduled on June 21, 2016 is during the Colorado Municipal League's Annual Conference. There are four Councilmembers and additional staff attending the conference. It is recommended that the June 21, 2016 regular meeting be rescheduled to June 20, 2016.

It was moved by Councilmember Austin and seconded by Councilmember Raley to move the June 21, 2016 regular meeting to June 20, 2016. All in favor, motion carried.

### **Resolution #4, 2016; Making a Finding of Substantial Compliance with Annexation Statutes and Setting a Public Hearing Date**

Resolution #4, 2016

A RESOLUTION OF THE CITY OF DELTA SETTING A  
PUBLIC HEARING ON THE ANNEXATION OF THE  
NIELS ADDITION

**Regular Meeting, Delta City Council, May 3, 2016 (cont.)**

**Resolution #4, 2016; Making a Finding of Substantial Compliance with Annexation Statutes and Setting a Public Hearing Date (cont.)**

Community Development Glen Black stated that this is a resolution setting a public hearing for an annexation. There are two corrections on the resolution changing the date and one typographical error. Mr. Black explained the process for an annexation. Mr. Black stated that the city serves all utilities to the property.

It was moved by Councilmember Ryan and seconded by Councilmember Raley to adopt Resolution #4, 2016. Roll call vote: Councilmembers Austin, aye; Raley, aye; Roberts, aye; Ryan, aye and Sisson aye. Motion carried.

**Main Street Alley Pavement Project**

Utilities Director Steve Glammeyer stated that during the 2016 budget process, staff budgeted for the surface improvement of two alleys located between Main Street and Meeker Street from 2nd Street to 5th Street and between Main Street and Palmer Street from 2nd Street to 5th Street. The two alleys were disturbed during the installation of the Alley Storm Sewer Improvement project. Staff identified two possible base bid options for the surface improvement project; the primary bid option involving a hot mix asphalt pavement with a concrete center gutter pan or the secondary bid option involving concrete pavement over the entire alley easement. Staff invited qualified contractors to a mandatory walkthrough on April 6, 2016 and had 9 contractors attend. Staff received both bid options for this project from one contractor who used 3 of the contractors from the mandatory walkthrough.

The low bid for the 2016 Main St Alley Pavement project is from Wells Excavation and Farming, LLC. The bid was for the primary bid option of hot mix asphalt with a concrete center gutter pan for \$383,604.66, which includes all alternative bid items. The base bid project without any subgrade stabilization came in for a cost of \$265,166.21. By way of comparison, the engineers estimate for the base project excluding subgrade stabilization was \$293,133.05. The cost for possible subgrade stabilization is \$96,687.50. Staff hopes we can minimize any alley stabilization to reduce the actual project costs. The cost for other possible alternative items which includes several large miscellaneous roadway patches throughout the City is \$21,750.95. The bid amount for the construction of an all-concrete alley was cost prohibitive at \$762,314.18. The total budget for this work was \$400,000.

Councilmember Austin questioned why there was a low bid turnout.

Mr. Glammeyer stated that bid submittals really depends on the type of project. This project may have been two small for some of the contractors that are not local.

It was moved by Councilmember Roberts and seconded by Councilmember Raley to award the Main Street alley pavement project to Wells Excavation and Farming with an amount not to exceed \$383,604.66. All in favor, motion carried.

**Regular Meeting, Delta City Council, May 3, 2016 (cont.)**

**Ordinance #4, 2016; Second and Final Reading  
Rezone of West Winds**

Ordinance No. 4, 2016

AN ORDINANCE OF THE CITY OF DELTA, COLORADO,  
AMENDING THE ZONING DESIGNATION OF WEST WINDS  
PLANNED UNIT DEVELOPMENT, HAWKINS COMMERCIAL  
LOTS 1 & 2 FROM B-2 TO B-3

was read by the Clerk.

It was moved by Councilmember Roberts and seconded by Councilmember Ryan to adopt Ordinance #4, 2016 on second and final reading. Roll call vote: Councilmembers Austin, aye; Raley, aye; Roberts, aye; Ryan, aye and Sisson aye. Motion carried.

**Building Safety Month Proclamation**

They Mayor proclaimed May Building Safety Month.

**Appointment to Delta Housing Authority Board**

The Clerk reported that Tracy German resigned from the Delta Housing Authority Board which caused a vacancy. Staff did advertise the position and has received one applicant. Robert Jurca has served as the City Council liaison on the board for the past few years.

It was moved by Councilmember Austin and seconded by Councilmember Raley to appoint Robert Jurca to fill the term vacated by Tracy German on the Delta Housing Authority Board. All in favor, motion carried.

**City Attorney Comments**

There were none.

**City Manager Comments**

City Manager David Torgler presented the following information:

- The orientation and executive session is rescheduled for June 7, 2016.
- He requested Director Steve Glammeyer to update the Council on the success of the storm sewer project.
- He gave an update on the Municipal Quarterly Meeting.
- He is working with the local boy scouts on the flags that they put up during certain holidays.
- The employee breakfast was a success.
- He will be out of the office May 13 – 18, 2016.

**Regular Meeting, Delta City Council, May 3, 2016 (cont.)**

**Councilmember Comments**

Councilmember Austin stated that it is an exciting time to be on Council. He also commented on the Municipal Quarterly meeting.

Councilmember Raley stated he will not be at the next meeting.

Councilmember Roberts commented on a complaint he received regarding the gutters on Main Street and staff getting them cleaned in a timely manner.

Mayor Sisson reported that the hospital has hired three new doctors.

The meeting was adjourned at 8:06 p.m.

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Jolene E. Nelson, CMC, City Clerk

Item D:

Citizen Comments



# MEMO

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To: Mayor and City Council  
From: Jolene E. Nelson, CMC, City Clerk  
Date: May 17, 2016  
Subject: Authorization of Letter to Governor Requesting a Veto on  
HB16-1309



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*Office of the City Clerk*

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**Background:**

Staff is recommending Council approve the Mayor to sign a letter requesting the Governor to veto HB16-1309. Attached is the Colorado Municipal League's summary of HB16-1309.

City Attorney David McConaughy has drafted a letter requesting the Governor to veto HB16-1309 for several of the municipalities that his office represents. The letter is also attached.

# HB 16-1309



BUILDING A STRONG PARTNERSHIP WITH COLORADO'S CITIES AND TOWNS

## MUNICIPAL COURTS

### RIGHT TO COUNSEL AT FIRST APPEARANCE

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#### HB 16-1309 - YOUR "NO" VOTE RESPECTFULLY REQUESTED

HB 16-1309 requires the presence of a public defender at each session of jail advisements which are scheduled daily in many municipal courts. **HB 16-1309 disproportionately effects rural communities, provides protections that are already provided to defendants, creates several unintended consequences, and is logistically near impossible to implement without adequate state funding.**

#### **The bill is unnecessary.**

The **appointment of counsel** for defendants being held on municipal charges is **already required** under the U.S. Constitution and the Colorado Constitution. If the defendant is not released on a charge at the first appearance, the municipal court must appoint counsel. Currently, the attorney then appears at the next court appearance after time to review the case, meet with the defendant and formulate appropriate legal advice.

#### **The appointment of attorney may result in a case to be unnecessarily continued.**

Many municipal cases are resolved at the first appearance, often with credit for time served or a fine. These defendants are then released. The presence of an attorney with no ability to advise a defendant will unnecessarily delay the process, since a continuance must occur to allow the attorney to review the case reports and file.

#### **Most arrests occur after the defendant has failed to appear on a summons.**

Courts generally grant personal recognizance bonds (P.R. bonds) when the defendant has failed to appear a few times on a case; but after numerous missed court dates, the court must consider the unnecessary waste of taxpayer resources with numerous arrests for the same charge. The court then has good reason to keep the defendant in custody to resolve the case. Municipal cases are often resolved at the first appearance allowing the court to release the defendant immediately with credit for time served or with an alternative sentence such as a fine or community service.

#### **HB 16-1309 is unfunded state mandate.**

This bill directly contradicts C.R.S. 29-1-304.5 which states:

*"(1) No new state mandate or an increase in the level of service for an existing state mandate beyond the existing level of service required by law shall be mandated by the general assembly or any state agency on any local government unless the state provides additional moneys to reimburse such local government for the costs of such new state mandate or such increased level of service. In the event that such additional moneys for reimbursement are not provided, such mandate or increased level of service for an existing state mandate shall be optional on the part of the local government."*



May 17, 2016

The Honorable John W. Hickenlooper  
Governor of Colorado  
136 State Capitol  
Denver, CO 80203-1792

Dear Governor Hickenlooper:

The City of Delta City Council strongly urges you to exercise your power to veto House Bill 16-1309, which would require public defenders at each session of jail advisements in municipal court.

This is an unfunded mandate. Employing an attorney and paying him or her to wait during municipal court advisements on the minimal chance that a defendant meets the requirements of the bill would be a waste of taxpayer dollars.

The Delta Municipal Court already complies with the requirements of the United States and Colorado Constitutions concerning defendants' right to counsel. Adding additional requirements as mandated by this bill would cause unnecessary continuation of cases and may push more cases into the already over-worked county court system.

This bill will have a significant impact on municipalities in rural areas such as Delta. The number of local attorneys who might qualify to serve the role of public defender for the purposes of this bill is limited, so there is a substantial likelihood that a public defender would need to be hired and paid to travel from Grand Junction or further.

Please veto this bill. Thank you.

Sincerely,

CITY OF DELTA

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Edward C. Sisson, Mayor

cc: Doug Friednash, Office of the Governor  
Alan Salazar, Office of the Governor  
Kurtis T. Morrison, Office of the Governor, [kurtis.morrison@state.co.us](mailto:kurtis.morrison@state.co.us)

Item F:

**Legal Item**



# MEMO

To: City Council  
From: Glen L. Black   
Date: May 17, 2016  
Subject: Zoning Amendment/Rezone  
618 and 620 Bridge Street



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## *Community Development*

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**Recommendation:** Consider the Planning Commission recommendation of approval of the zoning amendment request for property addressed as 618 and 620 Bridge Street, from Mobile Home Residential (MHR) to Industrial (I) district with the requirement that screening be installed along the street frontage and between existing residential areas.

**Background:** On May 2, 2016, Planning Commission held a Public Hearing to review a Zoning Amendment/Rezone Request for the property listed above. The Planning Commission has made a recommendation to the City Council to approve the zoning amendment from MHR to I with a requirement of screening. During the public hearing, concerns were brought forward about screening along Bridge Street and also between adjacent residential uses and the applicant property. Delta Municipal Code 17.04.190.D.6 I District Performance Standards states: "Additionally, all outdoor storage may require screening to prevent industrial blight." Staff has concerns about the quality of the fence construction used to provide screening and wants the record to show that the City expects a quality fence to be installed in accordance with Delta Municipal Code 15.04.060 Fence construction and maintenance requirements.

Per City Code 17.04.290.H.1, "The Council may without further review implement such recommended change by adoption of a rezoning ordinance or take no action if no change is recommended, unless an appeal is filed as set out below, or it may decide in its discretion to hear the matter de novo as set out in Subsection (3) below."

**Cost:** Publication of the ordinance.

**Alignment With Strategic Planning:** The applicant has made the case that the zoning was erroneous since the property has always been used for auto repair and storage.

**Actions To Be Taken:** Accept the recommendation of the Planning Commission and consider the ordinance on first reading and staff will publish and prepare changing the official zoning map. Or set a de novo hearing.

Ordinance No. 5, 2016

AN ORDINANCE OF THE CITY OF DELTA, COLORADO, AMENDING THE ZONING DESIGNATION 618 and 620 Bridge Street from MHR TO I

WHEREAS, the owners of 618 and 620 Bridge Street located in Delta, Colorado have applied for rezoning of their property to a designation that will allow for storage and repair of automobiles on the parcel; and

WHEREAS, the City of Delta's Planning Commission, following a proper hearing of the rezoning application, has recommended that the zoning classification for the property be changed, as requested, from the present designation of MHR to a new designation of I; and

WHEREAS, the Delta City Council finds that the requested zoning change will not be adverse to the public health, safety and welfare and that the previous zoning was erroneous. Therefore, as previously determined by the City Planning Commission, the requested zoning amendment meets the criteria for zoning changes set forth in Delta Municipal Code Section 17.04.270.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DELTA, COLORADO, as follows:

**Section 1.** The zoning designation for the property in the City of Delta, Colorado that is specifically described as 618 and 620 Bridge Street be changed from MHR to I District.

**Section 2.** The official zoning map of the City shall be amended as soon as practicable to reflect the zoning change for the subject properties as approved by this ordinance.

ADOPTED ON FIRST READING AND ORDERED PUBLISHED this \_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

ADOPTED ON SECOND AND FINAL READING AND ORDERED PUBLISHED this \_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

Items: G, H & I

Attorney Comments



City Manager Comments



Councilmember Comments

