

CITY OF DELTA, UTAH  
REGULAR CITY COUNCIL MEETING  
**SEPTEMBER 17, 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 |
| Kaela Jackson       | City Attorney  |
| Gregory Jay Schafer | City Recorder  |

ALSO PRESENT

|                            |                                  |
|----------------------------|----------------------------------|
| Alan Riding                | Public Works Director            |
| Karen Johnson              | Assistant City Recorder          |
| Ken Clark                  | Assistant Pubic Works Director   |
| Claire Willmore            | U. S. Census Partnership Dept.   |
| Daniel Pacheco             | U.S. Census Partnership Dept.    |
| Rayette & Jarvis Jones     | City Residents                   |
| Linda Sorensen             | City Resident                    |
| Howard Quackenbush         | City Resident                    |
| Trenton Wilde              | U.S.U. Extension                 |
| Wes & Nona Duncan          | City Residents                   |
| Dillon & Brittney Pace     | City Residents                   |
| Betty Carter               | City Resident                    |
| Kim Campbell               | Campbell & Associates Architects |
| Kassidy Western            | City Resident                    |
| Brandon & Dena Kay Nielson | City Residents                   |
| Mike & Tina Nielson        | City Residents                   |
| Val Christofferson         | City Resident                    |

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, provided to the Millard County Chronicle/Progress, and provided to each member of the City Council at least two days prior to the meeting.

Council Member Kiley Chase 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 September 3, 2009 were provided for consideration and approval. Following review, Council Member Kiley Chase MOVED to approve the minutes of the Regular City Council Meeting held September 3, 2009, as presented. 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.

### 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 John Niles MOVED to approve the accounts payable dated September 17, 2009, in the amount of \$220,913.93. 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.

### PUBLIC COMMENT PERIOD

There were no comments from the public.

### UNFINISHED BUSINESS

#### MAYOR GAYLE BUNKER: 2009 LIGHT PARADE AND TREE FESTIVAL DATE

Mayor Bunker advised Council Members that he had discussed the date for the light parade and tree festival this year with Bonnie Shamo, chairman of Delta's Tree Festival. Mrs. Shamo advised him that the tree festival board is in favor of having their event on the Friday following Thanksgiving, which would be November 27, 2009.

Council Member Betty Jo Western MOVED to approve the Friday following Thanksgiving, November 27, 2009, as the date for the 2009 Light Parade and Delta's Tree Festival. 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: 2009 NEW YEARS EVE CELEBRATION

Mayor Bunker felt that, due to continuing reduction of sales tax revenues, perhaps we should cancel the New Years Eve celebration this year. The Utah League of Cities and Towns conference last week discussed the seriousness of municipal finances. Mayor Bunker is concerned about the lack of revenue and not knowing when it will improve. We have tightened up on expenditures and have

instructed all departments to limit spending.

Council Member Western felt that we should have the celebration for our citizens and asked those in attendance whether they would support spending funds to provide the celebration this year. Several members of the audience were in favor of having the New Years Eve celebration. Council Member Western asked if the some of the funds received from Magnum Energy for sale of surplus water could be used to fund the celebration. Mayor Bunker stated those funds have not been designated for any use because he expects they will be needed to replace decreased tax revenues. Council Members discussed ways to cut back on expenses for the celebration. Council Member Chase felt that a decision needs to be made tonight as to whether hold the celebration but a budget can be set at a later meeting. Planning needs to begin now in order to pull off a successful celebration.

Following discussion, Council Member Kiley Chase MOVED to hold the 2009 New Years Eve Celebration. 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.

#### NEW BUSINESS

##### CLAIRE WILLMORE, CENSUS BUREAU: 2010 CENSUS

Ms. Willmore introduced her supervisor, Daniel Pacheco, who is a partnership specialist out of the Denver Region office. Ms. Willmore stated that the 2010 census day will be April 1<sup>st</sup>. Census forms will be mailed out March 15<sup>th</sup>. In 2000, only 58% of the census forms were returned even though numbers from the census are used to determine congressional representation and distribution of millions of dollars of federal funds. It is felt that many people do not return the census forms because they don't understand the importance of reporting accurate numbers. For each person who is not counted, the community loses \$1,000 in funding every year. Ms. Willmore stressed the safety of information on the census forms and stated that census information is protected for 72 years.

Mr. Pacheco made a short presentation on how community leaders can become a partner with the Census Bureau in letting people know how important it is to return the census forms. The census form for 2010 is the shortest questionnaire in the history of the census, with only ten questions and it can be completed by the average household in ten minutes. Responses to the 2010 Census questionnaire are required by law and all responses are used for statistical purposes only. Mr. Pacheco asked Council Members to enact a proclamation or resolution to formally let residents know they are committed to the census and form a committee of residents who can get the word out to members of the community. This committee should include members from all segments of the community so they will be trusted by residents and be willing to complete the census form.

Mayor Bunker thanked Ms. Willmore and Mr. Pacheco for their information and stated that Delta City will try to do their part to make certain that Delta residents are counted in the 2010 census.

RAYETTE JONES: ORDINANCE NO. 01-192 PROHIBITING PIT BULL DOGS AND HYBRID DOGS FROM THE INCORPORATED AREA OF DELTA, UTAH

Rayette Jones advised Council Members that she had received notice that Delta City has an ordinance that prohibits pit bull dogs. Ms. Jones disagrees with the ordinance prohibiting pit bull dogs because she feels her dog does not go after people or other dogs and is rarely outside their house or yard. Ms. Jones cited information she had found from Salt Lake County Animal Services and the Best Friends animal shelter regarding pit bull dogs.

Mayor Bunker stated that the Delta City ordinance prohibits pit bull dogs or hybrid pit bull dogs.

Ms. Jones thinks the ordinance singles out one particular breed of dog and that it "picks on" one type dog, when any breed of dog can bite people or other animals if the owner is not responsible and does not train and socialize the dog. Ms. Jones stated that statistics show most dog bites come from small dogs. Ms. Jones requested that Council Members get input from the community regarding prohibiting pit bull dogs.

Council Member Kiley Chase stated that he had contacted Fillmore City to find out if they prohibited pit bull dogs and found they have adopted basically the same ordinance that we have adopted. Fillmore has had residents asking that pit bull dogs be allowed within city limits but Council Member Chase felt that the public, as a whole, needs to be made aware of this ordinance and allowed to comment on whether or not they are in favor of or against prohibiting pit bull dogs before the Council takes any action.

Mayor Bunker told Ms. Jones that the Council will discuss what type of forum to use to get public input on the ordinance but, in the meantime, pit bull dogs are currently prohibited from Delta City and will be until there is a change in the ordinance. Mayor Bunker advised those in attendance that our ordinances state that dogs are not to be running free at any time.

MAYOR GAYLE BUNKER: APPOINTMENT OF LINDA SORENSEN TO PLANNING & ZONING COMMISSION TO FILL UNEXPIRED TERM OF LIZ WEBB

Mayor Bunker advised Council Members that Liz Webb has requested that she be replaced on the Planning & Zoning Commission. Mayor Bunker expressed appreciation to Liz Webb for her service on the Planning & Zoning Commission and recommended that Linda Sorensen be appointed to fill the unexpired term, which will expire in February, 2012.

Council Member Kiley Chase MOVED to appoint Linda Sorensen to the Planning & Zoning Commission to fulfil the unexpired term of Liz Webb through February, 2012. 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.

COUNCIL MEMBER KILEY CHASE: APPOINTMENT OF TWO LIBRARY BOARD MEMBERS

Council Member Kiley Chase MOVED to appoint Tammy Bean and John DeGrey as members of the Library Board to fill vacant positions. 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.

MAYOR GAYLE BUNKER: PROPOSED SUBDIVISION REVISION ON PROPERTY LOCATED AT APPROXIMATELY 176 SOUTH LOCUST AVENUE

Mayor Bunker indicated that the Planning & Zoning Commission had met just prior to this meeting to review the proposed subdivision revision on property located at approximately 176 South Locust Avenue and described as Lot 6, Silver Sage Subdivision, along with property adjacent on the west. The Planning & Zoning Commission recommended that the subdivision revision be approved in order to allow relocation of an existing pavilion structure. Relocation of the pavilion will result in the structure crossing the existing property line where a five foot utility easement is located. Blue Stakes has been contacted to make certain there are no utilities located in the easement but it is believed there are none. The subdivision revision is to vacate the five foot utility easement running along the west boundary of Lot 6 of Silver Sage Subdivision. The remaining utility easements, along the other three sides, will remain in place.

Following discussion, Council Member Kiley Chase MOVED to approve the requested subdivision revision by vacating the five foot utility easement along the west boundary of property located at approximately 176 South Locust Avenue, known as Lot 6, Silver Sage Subdivision. 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: PROPOSED ZONE CHANGE FROM RESIDENTIAL 1-B (R-1-B) TO PUBLIC/QUASI PUBLIC (P/QP) ON PROPERTY LOCATED AT APPROXIMATELY 176 SOUTH LOCUST AVENUE, INCLUDING ADJOINING PROPERTY

Mayor Bunker stated that this proposed zone change will affect the parcel of property on which the subdivision revision was made and include additional property purchased by the L.D.S. Church which runs along the west side and adjacent to Lot 6, Silver Sage Subdivision, connecting this property with the property on which the new L.D.S. Stake Center is being constructed. The zone change will provide the same zone designation for all property owned by the L.D.S. Church in that area. There were 3½ acres which had been zoned P/QP for a number of years and additional property was purchased which is currently zoned R-1-B. Mayor Bunker suggested that the public hearing be

scheduled for Thursday, October 15, 2009 at 6:30 p.m.

Kim Campbell asked if it would be necessary for him to wait to relocate the existing pavilion until the zone change takes effect. Mayor Bunker advised Mr. Campbell that the pavilion can be relocated without waiting for a zone change because current zoning allows for construction of an accessory structure as a permitted use on the property.

Council Member Betty Jo Western asked Mr. Campbell why the pavilion planned for the northwest corner of the property, according to the information provided to Council Members on October 8, 2008, had been constructed on the northeast corner. Mr. Campbell responded that he did not know whether it was a typographical error or whether the location of the pavilion had been moved, but the site plan had been reviewed by anyone who was interested. Mr. Campbell stated that he could not tell whether it was on the northeast, northwest, or whatever. Council Member Western stated her belief that it was a concern because she had walked the area and noticed that on every corner but the northwest corner, there are residential areas where people can see the lighting, the noise and different issues but where the minutes of the October 8<sup>th</sup> meeting indicate the pavilion would be constructed is on the northwest corner, which is near commercial areas like the hospital where there would not be as much of an impact from lights and noise. Council Member Western asked if Mr. Campbell was aware that the property had two different zone designations. Mr. Campbell replied that he believed that it was a residential zone where the pavilion was suggested to be located. Council Member Western asked if Mr. Campbell knew the pavilion was in a residential zone. Mr. Campbell responded that, when they began the proposal to locate the pavilion, he learned that it was a residential zone. Council Member Western asked when the additional property was purchased. Mr. Campbell did not know when the additional property was purchased by the L.D.S. Church. Council Member Western made reference to the language of the ordinance rezoning the property from the Residential Development (R-D) zone to Residential 1-B (R-1-B) in 2005. Council Member Western asked when the L.D.S. Church had purchased the property. No one knew when the property was purchased. Council Member Western questioned when the property owned by the L.D.S. Church was zoned Public / Quasi-Public and Zoning Officer Riding indicated that the property was zoned Public / Quasi Public when we did some rezoning in 2005 to designate how several parcels of property were being used. Zoning Officer Riding advised Council Member Western that the new L.D.S. Stake Center was constructed on property which has been owned by the church for a number of years. At some point, they purchased additional property which is zoned Residential 1-B (R-1-B). The pavilion was constructed on the additional property, which is not an issue because the zone designation allows construction of an accessory structure and the pavilion is an accessory structure for the church. The placement of the structure on the property more than exceeds the set back requirements in our ordinance. Thus, even though the pavilion is in a different zone designation than the church building, the parcel upon which the pavilion is located allows for the building to be constructed there. In fact, if the area had all been zoned R-1-B, the church building could have been constructed there with a conditional use permit. All construction and permits prior to and up to this time has been in compliance with our ordinances. The issue of changing the zone designation at this point is strictly to avoid having the property owned by the L.D.S. Church designated as two different zones. The zone change is not required and has no effect on the construction project now in progress.

Council Member Western asked if the building permit application included construction of the pavilion. Zoning Officer Riding responded that he presumed the Millard County Building Official had evaluated the entire plan. Zoning Officer Riding signs the building permit indicating that the zoning and set back requirements are met.

A member of the audience stated they had a copy of the building permit which shows only one structure on the property. Mayor Bunker told those in the audience that if they wished to speak they need to come to the microphone and state their name before speaking.

Dena Nielson stated that she owns the property adjacent to the current location of the pavilion and it is located directly behind her home. Mrs. Nielson expressed concern that they had tried to get the pavilion moved when it was being constructed but had to contact the L.D.S. Church to get the problem resolved. Mrs. Nielson felt that construction of the pavilion should have been stopped because the property was zoned R-1-B. Zoning Officer Riding responded that the property on which the pavilion is constructed is designated as R-1-B but the pavilion is allowed in that zone designation. Mrs. Nielson asked why the building permit had one structure shown on it and why there is no zone designation shown on the building permit. Mrs. Nielson asked if it is the responsibility of the City to rezone the property because she believes the L.D.S. Church is not aware that the property is zoned R-1-B. Zoning Officer Riding agreed that the situation of the pavilion being basically sitting in the Nielson's back yard is unfortunate but stated that had done everything that he is, by ordinance, required to do. The pavilion was built properly and accurately, even though it is unfortunate that the placement causes a problem with the Nielson property. Mrs. Nielson stated that she just wants her property rights as a citizen to be protected.

Mayor Bunker stated that the position of the pavilion at this time is changing and will be moved from behind the Nielson property so, at this time, there is no need to discuss what happened in the past. Whether the pavilion was placed there right or wrong, or whatever, it is leaving so there is no need to discuss it further. Mayor Bunker invited Mrs. Nielson to make any comments she had regarding the proposed placement of the pavilion but not what has happened in the past. Mrs. Nielson told the Council she felt they should have had the opportunity to vote on the situation in the beginning. Mayor Bunker advised Mrs. Nielson that we have ordinances in place so the Council does not have to meet and discuss every question which comes up from citizens. When we find that ordinances are flawed, we correct errors and adopt a new ordinance.

Mayor Bunker asked if there were any other comments regarding locating the pavilion on the lot previously discussed. Mayor Bunker advised those in attendance that he did not know if the pavilion structure was included in the original building permit but, if it was not, that needs to be done. Mr. Campbell stated that he would check and, if the building permit does not include the pavilion, he will take care of the matter. The building permit was obtained by the contractor and Mr. Campbell has not seen it.

Following discussion, Council Member Kiley Chase MOVED to set a public hearing on Thursday,

October 15, 2009 at 6:30 p.m. for the purpose of receiving public comment regarding a proposed zone change from Residential 1-B (R-1-B) to Public / Quasi-Public (P/QP) on property located at approximately 176 South Locust Street, designated as Lot 6, Silver Sage Subdivision, including adjoining property to the west. The motion was SECONDED by Council Member Bruce Curtis. Mayor Bunker asked if there were any comments or questions regarding the motion. Council Member Western asked if Mr. Campbell could proceed with relocating the pavilion and she felt that he could not relocate the structure prior to the public hearing. Mayor Bunker responded that the pavilion can be relocated without waiting for the zone change because the structure is a permitted use in the Residential 1-B zone designation. Council Member Western asked why Mr. Campbell is at the meeting if he can go ahead with relocation without a public hearing. Zoning Officer Riding responded that Mr. Campbell is here because he is required to request vacation of the utility easement on the west boundary of Lot 6, Silver Sage Subdivision. Mayor Bunker asked if there were any other comments or questions. There being none, he called for a vote. The motion passed with Council Members Kiley Chase, Bruce Curtis and John Niles voting in favor and Council Member Betty Jo Western voting against.

#### MAYOR GAYLE BUNKER: RATIFICATION OF FALL CLEAN UP DATES

Mayor Bunker asked Council Members to ratify the clean up dates set at the previous Council meeting.

Council Member Kiley Chase MOVED to ratify the dates of October 31<sup>st</sup> as clean up day for areas north of Main Street and November 7<sup>th</sup> as clean up day for areas south of Main Street. 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.

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

Public Works Director Alan Riding reported that repair work has been completed on the elevated storage tank; it has been disinfected, cleaned, flushed and is back in the system.

Last week the Gardner well developed problems. Rhodes Pump was contacted to check the problem and found it was necessary to install an additional forty feet of well column due to the dropping water table. The pump is now back in service. The Gardner well is now the number one well for the system so it is critical to keep it repaired and online.

Public works employees have been doing work on some hazardous sidewalks around town and preparing for asphalt patching and filling pot holes.

#### OTHER BUSINESS

Wes Duncan asked if anything had been done about his request that Jacobs engine brakes not be



permitted in Delta. Mayor Bunker requested that Public Works Director Riding order signs prohibiting use of Jacobs engine brakes within city limits.

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Public Works Director Riding reminded Council Members that an open house will be held at the site of the Ridge Top well on Wednesday, September 30<sup>th</sup> from 5:30 p.m. to 7:30 p.m. The gentleman who helped with the placement of the well through water witching will be in attendance to do some demonstrations and Sunrise Engineering will be providing hamburgers and hot dogs for those who attend. Mayor Bunker requested that Council Members invite people to attend the open house and noted there will be an ad in the newspaper this week.

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Mayor Bunker reminded Council Members that the car show will be held in Delta this weekend.

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Mayor Bunker advised Council Members that Greg visited the doctor on Tuesday and all went well. He has another appointment with the doctor on October 6<sup>th</sup> and if everything is still healing well, he will be able to start returning to work on a limited basis. He has been doing a quite a bit of computer work from home.

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Council Member John Niles noted that the Utah League of Cities & Towns conference was excellent and had some really good speakers. Mayor Bunker reported attended several really good sessions. Council Member Western reported on a session she attended where some suggested rules for elected officials were provided.

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Mayor Bunker asked if there were any comments, questions or other items to be discussed. Council Member Western stated that notice of this meeting was not listed on the Utah Public Notice website twenty-four hours in advance of the meeting.

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Mayor Bunker asked if there were any other comments, questions or items to be discussed. There being none, Council Member Bruce Curtis MOVED to adjourn the meeting. 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.

Mayor Bunker declared the meeting adjourned at 8:40 p.m.

  
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GAYLE BUNKER, Mayor

  
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GREGORY JAY SCHAFFER, MMC, City Recorder

MINUTES APPROVED: RCCM 10-01-09