



**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

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PRESENT

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| John W. Niles, Mayor | 7 Nicholas W. Killpack, Council Member |
| Kiley J. Chase, Council Member | 8 Betty Jo Western, Council Member |
| J. Travis Keel, Council Member | |

ABSENT

- Robert W. Banks, Council Member

ADDITIONAL PRESENT

- | | |
|--|---|
| Gregory J. Schafer, Admin. Officer/Recorder | 19 Barbara J. Clark, Chronicle-Progress |
| Todd F. Anderson, City Attorney | 20 Richard D. Jacobson, Oak City Resident |
| Dent R. Kirkland, Public Works Director | 21 Gayle K. Bunker, City Resident |
| Travis L. Stanworth, Asst. Public Works Dir. | 22 James Young, City Resident |
| Lynn B. Ashby, Fire Chief | 23 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

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

49

50 **PUBLIC COMMENT PERIOD**

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

54

55 **BUSINESS**

56

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

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

75

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

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

87
88 Mr. West informed the Council that he is wanting to get this project up and going and is
89 approaching the City to see if the City would be willing to hold discussions with his group and
90 work-out a prepaid 15-year lease for the plant site and a prepaid 25-year lease on their hangar;
91 with renewal options every five years, in exchange for their helping with airport improvements.
92 Council Member Chase asked if they had any firm commitments from any company as far as
93 providing coal ash. Mr. West stated that he had not, but he has been discussing it with a company
94 and they are interested. Council Member Chase stated that he found it odd that Mr. West has
95 been told that Intermountain Power Service Corporation (IPSC) is not interested. Mr. West
96 clarified that IPSC is not disinterested, they are just not interested in it until they their deal with
97 Magnum Holdings is settled. There was a discussion about whether IPSC would be staying with
98 the use of coal or transitioning to natural gas use for the generation of electricity. Council
99 Member Chase voiced his concern about the City making a commitment without any actual
100 commitment from a company to provide coal ash. Mr. West stated that it is a concern for him as
101 well, but assured the Council that he would make sure that, once he has the project funds in
102 place, that he would have a commitment from a company for the provision of coal ash.

103
104 City Attorney Anderson informed the Council that his concern is that while Mr. West is offering
105 \$10,000 now and \$100,000 in approximately July 2018, and currently wants approval to lease the
106 land, the only reason that the City would be interested in participating is for the \$2,000,000
107 because the engineering work would be useless to the City until the actual enhancements and
108 reconstruction of the runway occurs, which, at present has no certain date. Mr. West stated that
109 he is waiting for Airport Development Group, Inc. (ADG) to get him a project budget construction
110 timeline. Mr. West requested that he receive a letter of intent from the City which would indicate
111 our willingness to enter in discussions regarding the leases, subject to a number of terms, such
112 that he can take it to a group of investors and prove that any interest is simply a figment of his
113 imagination. Mr. West stated that there is a group in the Chicago, Illinois area that is interested
114 in building the first plant with along with PacifiCorp (Rocky Mountain Power's parent company)
115 and that they minimally lend or invest in projects of \$2-500,000,000 range and they would not
116 want to be involved in the smaller deal, but were informed that you need to start with the smaller
117 projects.

118
119 Council Member Western noted that Mr. West is America's Clean Energy's CEO, and asked how
120 long that company has been in business. Mr. West stated that America's Clean Energy was
121 formed a little over ten years ago and that it is a family entity. Council Member Western asked if
122 this was America's Clean Energy's first time proposing an undertaking of this nature. Mr. West
123 stated that he has had a contract with Los Angeles, California's Sanitation Bureau, in writing, to
124 perform municipal solid waste conversion, and, due to change in general managers, the contract
125 was never carried out. Mr. West listed a couple other contracts that fell apart and stated that
126 municipal dealings are very complex which is why he has decided to move into the mining sector.
127 Council Member Western asked if there were any other companies out there doing the same

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

131
132 Council Member Killpack asked what byproducts his company would be producing from the coal
133 ash. Mr. West informed him that they could conceivably include insulation, ceiling tiles, ceramics,
134 and other products. Mayor Niles informed Mr. West that they would think on the subject more
135 and when he gets his funds, they will continue from there. Mr. West asked if he could receive an
136 expression of the City's interest and willingness to go forward with the project subject to
137 everything discussed so that he can give him something to show to the potential lenders. Mr.
138 West then thanked the Council for their time.

139
140 **Public Employees Health Program (PEHP) Fiscal 2019 Premium Rates**

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

158
159 **Resolution Number 18-421, Appeal Authority Appointment**

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

170 Mayor Niles stated that they had tried to discourage this couple from seeking a variance because
171 they are next to impossible to receive, but the couple is wanting to pursue the matter and are
172 willing to pay for its consideration. Public Works Director Kirkland stated that they had not yet
173 filled out the application and paid the non-refundable fee, but that they are aware of them and
174 have expressed that they are still wanting to proceed. Council Member Western asked Mr.
175 Richins if he has handled such matters before. Mr. Richins confirmed that he had. Council
176 Member Killpack asked how often appeals occur. Public Works Director stated that this is the first
177 time one has happened in the three years that he has been the Public Works Director and maybe
178 the second one that has happened in the time that he has worked for Delta City. Mayor Niles
179 stated that years ago, there was a variance board and that the position was designated to a
180 qualified individual. City Attorney Anderson stated that it is a legal decision, not a political
181 decision, so it was taken out of the political body, which is why the City has historically used an
182 attorney, but Mr. Richins is aware of the law. Council Member Keel MOVED to adopt Resolution
183 18-421, appointing an appeal authority (Adam Richins) for Delta City. City Attorney Anderson
184 asked about the Resolution saying that it was numbered 18-422 and Recorder Schafer stated that
185 he had noticed that the correct number was 18-421. The motion was SECONDED by Council
186 Member Chase. Mayor Niles asked if there were any questions or comments regarding the
187 motion. There being none, he called for a roll call. The motion passed with Council Member
188 Chase, Council Member Keel, Council Member Killpack and Council Member Western in favor
189 and Council Member Banks absent.

190

191 **Fleet Vehicle Acquisition Request**

192 Public Works Director Kirkland informed the Council that the Public Works Department would
193 like to purchase another service truck keeping with their current rotation schedule of vehicles.
194 Mr. Kirkland indicated there was currently an unused appropriation of \$50,000.00 in the Sewer
195 Fund's Equipment Upgrades budget line item (52-40-930) in the current year budget. Kirkland
196 stated that if he used this appropriation to purchase a new vehicle this year, he could again
197 budget for purchasing other necessary equipment in the Fiscal Year 2019 budget. Kirkland
198 informed the Council that this year he acquired specifications from a Utah State Contract and
199 then also provided said specifications to our local Chevrolet dealership to determine if their
200 pricing would come within five-percent and be able to be awarded the purchase under Delta
201 City's current Purchasing Policy provisions. City Attorney Anderson noted that if the truck were
202 acquired locally, the vehicle would also have local warranty services. Council Member Keel
203 MOVED to approve the fleet vehicle acquisition request of a 2019 Chevrolet Silverado 3500HD
204 4WD Double Cab from Droubay Chevrolet in the amount of \$35,080 with the addition of
205 applicable fees. The motion was SECONDED by Council Member Killpack. Mayor Niles asked if
206 there were any questions or comments regarding the motion. There being none, he called for a
207 vote. The motion passed with Council Member Chase, Council Member Keel, Council Member
208 Killpack and Council Member Western in favor and Council Member Banks absent.

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

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

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

233
234 The Council discussed that the hangars would need to be put up for bid. Council Member Western
235 asked what most of the other airports are charging for their average lease rate. Public Works
236 Director Kirkland stated that they are charging 25 or 30 cents per square foot. There was a
237 discussion about bringing in enough money to pay for the airport maintenance at the airport like
238 lighting and plowing since the FAA money is for specific projects only.

239
240 City Attorney Anderson informed the Council that if they are going to sell the hangars, they would
241 need to declare which hangars will be surplus and set the process by which they want to sell
242 them, since the City does not have a surplus property policy, within commercially reasonable
243 means. Council Member Killpack asked what the due process is for publishing the sale of
244 property. City Attorney Anderson stated that that was what the Council would need to decide
245 tonight, provided it is commercially reasonable. It was discussed that the current hangar renters
246 would need to be given notice of the selling of the hangars before it is opened-up for bidding and
247 whether the hangars would be sold with tenants. The hangar that the City is keeping was
248 discussed. Council Member Keel MOVED to declare three hangars at the airport owned by Delta
249 City, designated by the Mayor and Public Works Director Kirkland, to be sold at an auction, to the
250 highest bidder, in the form of a sealed bid, with the City's option to reject any or all bids. This will
251 be posted in the Millard County Chronicle-Progress and on the Delta City website for 10-14 days,
252 and that bids will be accepted within 15 days of the initial publishing, and tenants will be given
253 notice of the intent to sell the property. The motion was SECONDED by Council Member Killpack.
254 Mayor Niles asked if there were any questions or comments regarding the motion. There being
255 none, he called for a vote. The motion passed with Council Member Chase, Council Member Keel,

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

258

259 **Municipal Airport Ground Lease Rates**

260 Public Works Director Kirkland stated that he felt that ground-lease rates be determined before
261 the hangars get sold, but he thinks that the contracts need to be adjusted first too. There was
262 question about whether the contracts can be adjusted. City Attorney Anderson stated that they
263 can be adjusted according to the Consumer Price Index (CPI). There was a discussion about how
264 rate increases would need to be balanced. Council Member Killpack stated that he thinks that
265 the agreement is beneficial to the City, but he felt that the ground lease price should be put high
266 enough that it should not become a problem again in the near future. There was a discussion
267 about how the change to ground lease rates would apply to future contracts, but not the two
268 hangars that are leased currently, unless they sell. Council Members agreed that they are wanting
269 the ground lease rates to be of fair market value. City Attorney Anderson stated that the City
270 would have to lease the hangar and a buffer zone/setback of about 10 feet, he would have to
271 double-check what that setback should be. Public Works Director Kirkland informed the Council
272 that Spanish Fork City charges \$.31 cents a square foot, but are changing to \$.33 or \$.35, Nephi
273 City charges \$.30 a square foot for improved or \$.15 cents a square foot for non-improved,
274 Richfield City charges \$.30 cents a square foot for commercial or \$.18 cents for non-commercial
275 and the hangars that they own and rent out are \$3,600.00 a year, Monticello City charges \$.10
276 cents a square foot, and Roosevelt City charges \$.25 cents a square foot. There was a discussion
277 about how the other airports compare to Delta's. City Attorney Anderson stated that Delta
278 Municipal Airport ground lease rates had gone up 2/10 of a percent from calendar years 2012-
279 2018. It was agreed that City Attorney Anderson would check into lease term provisions offered
280 by other cities. Council Member Western MOVED to TABLE the municipal airport ground lease
281 rates. The motion was SECONDED by Council Member Chase. Mayor Niles asked if there were
282 any questions or comments regarding the motion. There being none, he called for a vote. The
283 motion passed with Council Member Chase, Council Member Keel, Council Member Killpack and
284 Council Member Western in favor and Council Member Banks absent.

285

286 **Public Works Activities**

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

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

310

311 **Other Business**

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

318

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

325

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



327

328 **MINUTES APPROVED: MM/DD/2018**

JOHN WESLEY NILES
MAYOR

GREGORY JAY SCHAFFER, MMC
ADMINISTRATIVE OFFICER/RECORDER