

PUBLIC HEARING

FEBRUARY 3, 1986

PRESENT

Ruth Hansen	Mayor
Craig Greathouse	Council Member
Don Dafoe	Council Member
David Church	Council Member
Neil Dutson	Council Member
Gayle Bunker	Council Member

ABSENT

Dorothy Jeffery	City Recorder
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OTHERS PRESENT

Jim Allan	City Manager
Warren Peterson	City Attorney
Virginia Taylor	City Secretary
Rex Johansen	Contractor
Darlene Scott	City Resident
Johnny Scott	Boy Scout

Mayor Ruth Hansen called the meeting to order at 6:30 p.m. Virginia Taylor, City Secretary, acted as secretary. Mayor Hansen read the following notice:

NOTICE, is hereby given that the Delta City Council has scheduled a Public Hearing for the purpose of receiving public comments regarding a request for street vacation on the boundaries of Block 25 on Monday, February 3, 1986, at the City Building located at 76 North 200 West, Delta, Utah, which meeting shall begin promptly at 6:30 p.m.

Mayor Hansen presented the following memorandum to the Council for their review:

DATE: February 3, 1986
TO: Honorable Ruth Hansen, Mayor, City of Delta
and City Council Members
FROM: Warren H. Peterson, City Attorney
SUBJECT: Vacation of public streets and conveyance of
vacated street to private entities

The City Council has in the past established a policy that Delta City should receive compensation for property contained within public streets which are vacated and

conveyed to private entities. This policy has become a matter of concern with respect to the street vacation request submitted by Rex Johansen.

The street vacations were requested by Mr. Johansen to allow development of additional property within his proposed subdivision. Reasons advanced by Mr. Johansen for the street vacation include, among others:

1. Narrowing of streets, thereby providing for less public right-of-way maintenance cost.
2. Providing additional property for development, thereby making development of property within the original Delta Townsite Plat economically feasible.

The arguments advanced by Mr. Johansen are sound, but the proposed action creates certain problems. First, the land contained within the city streets were dedicated to Delta City and are held in a fiduciary capacity by the City for use by its residents. Second, vacation of the streets and conveyance of the property within the vacated portions to a developer does not guarantee that the objectives advanced by Mr. Johansen would be met. For instance, if the streets were vacated and the property conveyed to Mr. Johansen, there is no guarantee that he will develop any streets in that area, or that he will develop the subject property. These same concerns apply, of course, to any land developer.

If the Council wishes to foster development of property within the original Townsite Plat, making property available from narrowed streets is a legitimate method of doing so. We recommend, however, that certain procedures be used to assure that the property given by the City is applied to accomplish the desired objectives.

One device that could be used would be to allow the streets to be vacated, but to make the vacation of the streets subject to conditions which would assure that the City's objectives are met. The street vacation ordinance could be conditioned so that it becomes effective only upon filing of a subdivision plat dividing the subject property into lots, with an area within the subdivision equal to the area of the vacated streets being included in lots which would then be conveyed to Delta City. The subdivider could then proceed with his subdivision development and sales. As the lots dedicated to Delta City are sold, the value of the lots, prior to improvement, could then be paid to

Delta City through the escrow company completing the lot sales. The City Council may wish to further limit the lot sales to require that the City lots would be sold, or the City would be paid the value thereof, at or before half of the lots in the subdivision are sold.

Another arrangement could provide that the vacated portions of the street be included in the subdivision, but title be held by Delta City. As each lot is sold, the portion of the lot being held by Delta City could then be deeded to the developer, with instructions to the escrow or title company completing the property closing that the value of that property be paid to Delta City out of the sale of the lot.

Either of these arrangements would require an agreement between the City and the developer prior to the vacation ordinance becoming effective. The agreement should be entered on the Millard County Recorder's records. This would avoid having the property sold without the restrictions being in place.

The proceeds of the sale of such City property should be applied to capital improvements benefitting or required for the subdivision in question.

WHP

Mr. Johansen said that acquiring the additional 15 feet around the boundaries of Block 25 would allow the lots within that block to be larger with a 25 foot setback from the street rather than a 45 foot setback.

Mr. Johansen asked if he could pay ten dollars (\$10.00) in exchange for the property. Council Member Gayle Bunker said that there is compensation given if the street improvements are made on the property frontage, but there should be some guarantee that improvements will be made.

Attorney Peterson referred to his memorandum and said that the property should not be given away unless there is some assurance that it is going to be developed. Mr. Peterson said that when the subdivision plat is recorded, two lots should be identified as Delta City lots and the proceeds from the sale of those lots would go to Delta City. Rather than going into a general capital fund, that money would be turned back and applied to the development of the streets, to cover the drains, etc., he said. By so doing, the developer gets his money back, but at the same time the money is held back until the development occurs to assure those funds are applied to the development of improvements so the property doesn't merely become additional real estate that a developer can sell. With these safeguards, he said, the developer gets his money back and the City makes sure its objectives are met.

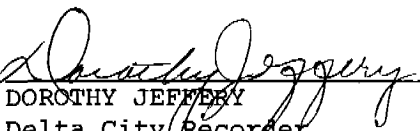
There was no public in attendance to voice their opinion for or against the proposed street vacation.

The Council concurred that this item should be placed on the agenda for the next regular City Council meeting.

Mayor Hansen asked if there were any further questions or comments regarding the proposed street vacation of the boundaries of Block 25. There being none, she declared the meeting adjourned at 7:00 p.m.



RUTH HANSEN, Mayor

Attest: 
DOROTHY JEFFERY
Delta City Recorder

MINUTES APPROVED: March 10, 1986