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**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**

**July 3, 2012  
7:00 p.m.**

- A. Pledge of Allegiance**
- B. Changes to the Agenda**
- C. Minutes**
- D. Citizen Comments**
- E. Wellness Pool Design Contract (Erven)**
- F. Resolution #7, 2012; Mineral Rights of Condemned Properties (Schottelkotte)**
- G. Hotel/Restaurant Liquor License Renewal; Delta El Tapatio (Nelson)**
- H. City Attorney Comments**
- I. City Manager Comments**
- J. Councilmember Comments**

## **EXECUTIVE SESSION**

**For the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators, under CRS Section 24-6-402(4)(e); or more specifically for discussions regarding Confluence Drive.**

Mayor Ed Sisson called the meeting to order at 7:00 p.m. Also present were Councilmembers Bill Raley, Robert Jurca, Mary Cooper, and Ray Penick along with Interim City Manager Glen Black and City Attorney Mike Schottelkotte. 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**

Interim City Manager requested that the contract for C-VEST be moved to after the second reading of Council Bill #13, 2012.

City Attorney Michael Schottelkotte also requested that Council go into executive session before the discussion of Resolution #6, 2012.

**Minutes**

It was moved by Councilmember Jurca and seconded by Councilmember Penick to approve the minutes of June 5, 2012 as submitted by the Clerk. All in favor, motion carried.

**Citizen Comments**

There were none.

**Approval of Fireworks Display by Fire Department**

The City Clerk explained that the Delta Volunteer Fire Department has submitted an application for their annual fireworks show at Confluence Park. She explained that due to Governor John Hickenlooper's fire ban, it is also required that the Delta County Sheriff issue a permit. The fire department has received that permit.

Councilmember Penick questioned if there have been any problems in the past.

Jason Cooley, Station Manager for the Delta Volunteer Fire Department, stated that there have not been any problems. He explained that occasionally there are some hot spots. The Delta Fire Department as well as the Cedaredge Fire Department will be there to address those hot spots should any arise.

It was moved by Councilmember Cooper and seconded by Councilmember Penick to approve the permit for the 2012 4<sup>th</sup> of July fireworks show conducted by the Delta Volunteer Fire Department at Confluence Park. All in favor, motion carried.

**Regular Meeting, Delta City Council, June 18, 2012 (Cont.)**

**Purchase and Acquisition of the 2012 Garnet Mesa Electric System and Customers from DMEA**

Utilities Director Steve Glammeyer reported that in the 2011 budget process staff included money to continue acquisition of facilities and customers in the Garnet Mesa Area from DMEA. Staff informed DMEA in early January of the City's intention to acquire facilities indicated on the map that is included in the council packets. Acquisition of facilities and customers need to follow the State Statute for fair compensation.

Mr. Glammeyer explained that staff has been working on fair compensation and negotiating provisions of the statute. The statute provides for compensation of loss of revenue to DMEA for existing and new services over a period of 10 years. More specifically, the statute requires payment annually of 25% of the revenue received by the City for each existing service in the area and 5% of revenue received annually by the municipality from the sale of electric power to services that come into existence in the area for a period of 10 years from the date of acquisition. While there is some developable land in the area, staff and DMEA both agreed that the area seems to have built out and that new services will be minimal over the next 10 years and DMEA is willing to forego any payment for the 10 year period on new services.

He also explained that staff and DMEA both feel that tracking and compensating DMEA annually for lost revenue would be a burden and therefore staff proposed to pre-pay the future revenue at today's rate for the 10 year period. This method of pre-payment seems to be fair and equitable as rates will most likely increase over 10 years so paying them at today's dollars will compensate for the cost of tracking that revenue annually and making payment each year. Included in the council packets is a letter and email correspondence with Dan McClendon, DMEA General Manager, acknowledging this amount as acceptable to DMEA.

Mr. Glammeyer stated that the cost for the actual facilities and manpower necessary to close this deal are also required to be paid by the City. Those numbers were calculated by DMEA and are available for review. Staff feels these numbers are reasonable and represent fair compensation. The cost of the acquisition totals \$373,861.97.

Councilmember Penick questioned the address number of 1690 not being included.

Mr. Glammeyer explained that there are a couple addresses that are not included. One is being 1701 which has a big ditch running through it. Staff would have to boar under that ditch and that would not be cost effective at this time. Also, 1690 will be acquired when Mountain View is acquired.

It was moved by Councilmember Cooper and seconded by Councilmember Raley to authorize the purchase of the electric service for the 2012 Garnet Mesa acquisition in the amount of \$373,861.97. All in favor, motion carried.

**Cluster Development, Planned Unit and Zero Lot Line Developments**

Planning Technician Sharleen Walker stated that this was discussed previously at a work session. This discussion tonight is to get some feedback from Council on how they would like to proceed.

## **Regular Meeting, Delta City Council, June 18, 2012 (Cont.)**

### **Cluster Development, Planned Unit and Zero Lot Line Developments (cont.)**

Currently the City has a Planned Unit Development (PUD) Plan in the Delta Municipal Code section 17.72. Staff feels it should be put under the subdivision section 16.05.

Ms. Walker also stated that there are different types of developments and they all serve different purposes. There have been requests from a couple business owners that would like to split a business that is currently one building on one parcel. Currently there isn't anything to use to accommodate this request.

Ms. Walker explained that Planned Unit Developments are used for developments that have mixed uses. The purpose of Zero Lot Line Developments and Cluster Developments is to allow multiple ownership of single building enveloped such as condominiums, townhomes, office and retail space. Cluster development is encouraged to preserve environmentally sensitive areas, open space and agricultural lands. She also explained the definition of the different developments.

Ms. Walker presented the following suggestions for cluster developments:

- Follow section 16.04.010 through 16.04.080 exempting 16.04.070e with the following additional requirements:
  1. Interior setbacks of individual ownership may be modified to fit the needs of the specific cluster development. The exterior setbacks of the entire development shall meet the tabled setback for the appropriate zone.
  2. Twenty-five percent of the gross acreage must be open space.
  3. The minimum lot size may be reduced if the aggregate size of the total platted cluster development meets the total of all lots minimum size requirements, including open space, however streets and roads may not be counted towards open space.
  4. The perimeter of the cluster development which abuts a right-of-way shall be buffered. All, or a portion, the open space may be located between the clustered development and adjoining development.
  5. The project landscaping and buffer design shall be established as part of any preliminary subdivision plan approval.
  6. A cluster development project may be developed in phases. The City may require the applicant to divide the project into phases in order to meet requirements and standards contained in these regulations. Each phase must be self-sufficient with adequate facilities and services and contain a mix of residential uses and densities and open space, while meeting the requirements, standards and conditions applicable to the project as a whole.
  7. All cluster developments shall establish a Home Owner's Association or other entity to maintain the common area.

As stated before Planned Unit Developments are already in the code, staff is suggesting putting it under Title 16.05.

Councilmember Penick questioned if the City is seeing the commons areas not being maintained.

Ms. Walker stated that code enforcement has not mentioned any problems.

## **Regular Meeting, Delta City Council, June 18, 2012 (Cont.)**

### **Cluster Development, Planned Unit and Zero Lot Line Developments (cont.)**

Councilmember Jurca questioned what recourse the City has if they don't maintain the area.

Manager Black stated that the ones that the City struggles with are the ones that didn't form a Home Owner's Association or within the formation did not tie it back to the property owners. If a Home Owner's Association is formed and they have it recorded, this gives the City leverage since it's a common ownership. There are a few older subdivisions where there are mini parks, which now are not allowed, that the City has been dealing with.

The following is suggestions for zero lot line developments:

- Zero lot line developments shall follow sections 16.04.010 through 16.04.080, exempting 16.04.070E with the following additional requirements:
  1. The outside boundary of the permissible building envelope for each lot must be graphically depicted on the plat, to be recorded with the plat. Any existing buildings must also be depicted on the plat.
  2. Multiple plan and elevation view plats are required if a building has more than one story, or if there is a basement located in the building.
  3. The setbacks for the original parcel must be met for the appropriate zone, interior setbacks may be zero, and may be through a building or buildings creating individual ownership properties or may divide the original parcel into two or more parcels with individual ownership.
  4. Recorded covenants shall provide for the maintenance of common walls, other common areas, limited common areas, and common spaces.
  5. All business entities must follow CRS 38-30-172 Statement of Authority.
  6. All buildings must meet current building code regulations.
  7. Lawfully existing non-conforming uses are not allowed in zero lot line developments.
  8. Separate utilities are required for each unit.

Attorney Schottelkotte stated that he may not have an ordinance ready for the next meeting. He suggested that they put in the motion for a future meeting.

Councilmember Cooper stated this makes things a little easier.

It was moved by Councilmember Penick and seconded by Councilmember Raley to direct staff to prepare an ordinance for consideration at a future council meeting changing the Delta Municipal Code with the suggested additions and deletions regarding Planned Unit Developments, Zero Lot Line Developments and Cluster Developments. All in favor, motion carried.

### **Burning Restrictions**

Ms. Walker stated that the current code provides for the City to issue burn permits. The State of Colorado and County of Delta have sufficient regulations to allow agricultural burning; therefore staff suggests that the City follow State and County regulations regarding open burning.

**Regular Meeting, Delta City Council, June 18, 2012 (Cont.)**

**Burning Restrictions (cont.)**

Staff is recommending the following changes to Chapter 8.07 of the Delta Municipal Code:  
8.080.020 Open burning restrictions.

- A. It shall be unlawful for a person to burn or allow the burning of any material on any open premises except for the cooking of food, the lawful use of matches, tobacco, flares, fireworks or explosives, other burnings expressly authorized by Subsection B.
- B. Open burning shall be approved only on the following conditions:
  - a. The property is ½ acre or larger.
  - b. The fire can be safely contained and controlled and no fire hazard will be created to adjacent property or structures.
  - c. The fire must be attended at all times until completely extinguished.
  - d. Open burning must follow Department of Public Health and Environment Colorado Air Quality Control commission Regulations 9 Open Burning Prescribed Fire and Permitting 5 CCR 1001-11.
  - e. Open burning must follow Delta County Burn Regulations, which includes contacting the Burn Hotline at 399-2955.

8.080.030 Burning prohibited. It shall be unlawful to burn trash, garbage or rubbish anywhere within the City.

Ms. Walker explained that the City does not have legal authority to issue burn permits and therefore there needs to be some changes within the code.

Councilmember Sisson questioned if citizens still have to call Denver.

Ms. Walker stated that they do have to contact the State.

Manager Black also stated that the State allows for agricultural burning without a permit, however, they still have to notify the county to find out if it's a no burn day.

There was discussion regarding the process for agricultural burning.

Jason Cooley reported that the burn line goes to dispatch and it is checked throughout the day. The system works well with fewer and fewer calls to the fire department each year. He questioned the wording on the ordinance regarding who determines if it is safely contained. He would also add outdoor welding and open pits to the list of open burning. The ordinance could be simplified to follow the Delta County Burn Regulations since they follow the State's.

Attorney Schottelkotte stated that he has some conceptual concerns regarding this process. The City would be removing the permitting process locally, which he understands. He would request Council to give him some time to take a look at this.

Mr. Cooley also stated that there is a burn ban in effect so there is no hurry to act on this. He would ask the City to work with the Fire Department as well as the County to be enforceable to include fines and penalties with a staggered system.

Attorney Schottelkotte stated that the coverage for fines and penalties is in the code.

## **Regular Meeting, Delta City Council, June 18, 2012 (Cont.)**

### **Burning Restrictions (cont.)**

Councilmember Penick raised a concern regarding putting the phone number in the ordinance.

Councilmember Jurca stated that this needs to be really looked at not being so strict.

It was moved by Councilmember Cooper and seconded by Councilmember Raley to table this item until it can be given more consideration and brought forth to a future meeting. All in favor, motion carried.

### **Sign Code Changes**

Ms. Walker stated that the at a previous work session roof and sandwich signs were discussed. Since these signs were possibly going to be changed staff also looked at the other various sign regulations to change them at the same time.

The first would be campaign signs. Currently there are no provisions in the code regarding campaign signs. The following is the recommendation for sign codes:

17.68.020(M) Campaign Signs: Noncommercial signs, such as political signs used for campaigning purposes, shall be allowed for a time period not to exceed sixty (60) days prior to the scheduled election and shall be removed no later than ten (10) days after the election date in which the office, issue or ballot question is decided. Signs shall not be placed in any public right-of-way, including medians, except that adjacent property owners may place campaign signs in a landscaped right-of-way area between the sidewalk and curb adjacent to private property. Signs placed on private property shall not obstruct the vision of motorists or pedestrian traffic due to size or location. Additionally, the total area of all such signs on a lot shall not exceed thirty-two (32) square feet.

Councilmember Jurca questioned if this would prevent signs being in public medians.

Ms. Walker stated those would not be legal. The signs would have to be on private property or as stated above.

Councilmember Cooper questioned the pickup trucks that are parked with the large tent signs in the back.

Manager Black stated there are no regulations for having signs in vehicles or upon vehicles.

Councilmember Cooper questioned if that can be addressed.

Councilmember Jurca commented that he doesn't see how that can be addressed.

Manager Black stated that staff has taken a look at that and have not been able to come up with a viable solution.

Dan Reardon, Building Inspector, reported that the City does have regulations regarding off premises advertising, this is very difficult to enforce.

**Regular Meeting, Delta City Council, June 18, 2012 (Cont.)**

**Sign Code Changes (cont.)**

There was further discussion regarding the off premises advertising.

Councilmember Cooper stated that the reason she brought up the sign codes is because the City has become more restrictive and she would like to see the City to be more friendly when doing business in Delta.

Mr. Reardon went on to talk about prohibited signs. Staff is recommending the following:

**17.68.030 Prohibited Signs.**

B. Balloons or other wind-powered devices including banners, pennants and flags, except when used for civic events up to a maximum of ten (10) days or as a temporary sign pursuant to Subsection 17.68.020(L). When such balloons, wind-powered devices, banners or flags are used as above they must be kept within twenty (20) feet of ground level. This paragraph (B) shall not apply to balloons having a diameter of less than 24 inches or pennants having a length of less than 18 inches, National, State, Armed Forces Flags or official city banners.

There was discussion regarding various banners and flags throughout the City. Staff would like direction from Council on how they would like the code to read.

Mr. Reardon stated that the way it reads now banners would be prohibited. However, if Council believes they are reasonable staff can change that.

There were some banner and pennant examples showed to Council.

Councilmember Raley stated that until the City starts getting complaints he doesn't feel they should be worried about it.

Mayor Sisson reported that most of them are in pretty good taste.

Manager Black questioned if Council would like any restrictions on them.

Councilmember Penick questioned if staff is requesting a permit be taken out in regards to these types of banners.

Mr. Reardon stated that he is not suggesting a permit process be in place. He would just as soon as ignore them and only do permits for the permanent signs.

There was a consensus to take the banners out of the ordinance.

Mr. Reardon then went on to address the suggested changes to the roof signs. He presented the following changes:

- Taking out 17.68.030(E)
- 17.68.060 (F) to read as follows:  
No part of any sign attached to or within six feet of a building shall be higher than the ridgeline of the roof or parapet of the building.

## **Regular Meeting, Delta City Council, June 18, 2012 (Cont.)**

### **Sign Code Changes (cont.)**

Councilmember Penick stated he is fine with the way it is now.

Staff presented some examples of some different roof signs.

There was a consensus to move forward with the changes.

Ms. Walker addressed the following changes for off premise signs:

- 17.68.040(A) Official City-owned and maintained directional signs for public facilities, such signs shall be located on City owned property, City easements or property leased by the City.
- 17.68.040(H) Collective identification or directory signs for churches and service clubs.

There was discussion regarding who would be responsible for the directory signs.

A consensus was to move forward with these changes.

Mr. Reardon also addressed the following changes to sandwich signs:

- 17.68.080(A) Portable sandwich signs which meet the following criteria may be allowed on Main Street City sidewalks from 13<sup>th</sup> Street to 1<sup>st</sup> Street if a permit is approved by the City:
- 17.68.080(F) Sandwich signs are allowed in any business district if placed upon private property and adequately secured. Such sandwich signs are included in the regular permitting process and are to be included in the computation of signage used.

Council agreed with these changes.

Mr. Reardon then addressed yard sale signs. Yard sales signs have been difficult to address. Code Enforcement goes out weekly picking up various yard sale signs that are put on medians throughout the City. Even with the address on the signs, it is difficult to enforce due to the fact they may not have put the sign there themselves. At this time, the signs are picked up and thrown away. Staff would like direction from Council on how to proceed.

Councilmember Raley stated that there can be so many regulations that they end up not being enforced.

Councilmember Jurca commented that the only ones that are bothersome are the ones tacked to power poles.

Manager Black reported that as the code stands now you can't do yard sale signs. Staff spends a lot of time trying to enforce the yard sale signs. He suggested possibly changing things to have code enforcement look at it on Monday mornings. Staff can put together a public notice notifying the residents that yard sale signs have to be picked up by Monday morning or we can continue to ignore them.

Councilmember Penick questioned if there are many complaints.

## **Regular Meeting, Delta City Council, June 18, 2012 (Cont.)**

### **Sign Code Changes (cont.)**

Mr. Black stated most of the complaints are from the people putting up the signs because we take them down.

There was discussion on how the placing of the signs can be enforced with the possibility of not knowing who actually put the signs out.

Manager Black stated that staff would recommend backing off the pre-yard sale enforcement and push it to Monday and within that not allowing them to be on the medians or sidewalks.

There was a consensus to proceed with the changes.

It was moved by Councilmember Raley and seconded by Councilmember Jurca to direct staff to prepare an ordinance for consideration changing the Delta Municipal Code section 17.68 the Sign Code as suggested. All in favor, motion carried.

### **Ordinance #13, 2012; Second and Final Reading Supplemental Development Standards**

Ordinance #13, 2012

AN ORDINANCE OF THE CITY OF DELTA, COLORADO,  
AMENDING SUBSECTION 15.04.090.A.1. OF THE DELTA  
MUNICIPAL CODE TO REVISE SUPPLEMENTAL  
DEVELOPMENT STANDARDS FOR PROPERTIES LOCATED  
WITHIN HIGHWAY CORRIDORS IN THE CITY LIMITS.

was introduced as Council Bill #13, 2012 and read by the Clerk.

It was moved by Councilmember Penick and seconded by Councilmember Raley to adopt Council Bill #13, 2012 on second and final reading. Roll call vote: Councilmembers Cooper, aye; Penick, aye, Raley, aye, Jurca, aye and Sisson, aye. Motion carried. Council Bill #13, 2012 was adopted on second and final reading as Ordinance #13, 2012.

### **Purchase Contract with C-VEST, LLC**

Public Works Director Jim Hatheway reported that this property acquisition is for the Confluence Drive project. Staff has successfully negotiated a price for a partial acquisition and easements for the project. The C-VEST property is located immediately west of ACE Hardware. The negotiated price is \$24,600.

It was moved by Councilmember Jurca and seconded by Councilmember Cooper to approve the property acquisition contract with C-VEST, LLC for \$24,600 and authorize the City Manager to sign said contract. All in favor, motion carried.

### **Executive Session**

Attorney Schottelkotte suggested the language to go into executive session.

**Regular Meeting, Delta City Council, June 18, 2012 (Cont.)**

**Executive Session (cont.)**

It was moved by Councilmember Jurca and seconded by Councilmember Cooper to convene an Executive Session for a conference with the City Attorney for the purpose of receiving legal advice on specific legal questions under CRS Section 24-6-402(4)(b) and to discuss the purchase, acquisition, lease, transfer, or sale of real, personal, or other property interest under CRS Section 24-6-402(4)(a) or more specifically for discussion regarding the acquisition of the Senteney Family Trust property. All in favor, motion carried.

At 8:18 p.m., Mayor Sisson recessed the Regular Meeting and convened the Executive Session.

At 8:44 p.m., the Mayor reconvened the Regular Meeting and announced that the Executive Session had been concluded. He stated that in addition to himself, the participants in the Executive Session were Councilmembers Robert Jurca, Bill Raley, Ray Penick and Mary Cooper; along with Interim City Manager Glen Black, City Attorney Michael Schottelkotte, and Public Works Director Jim Hatheway. For the record, the Mayor asked any person participating in the Executive Session who believed that any substantial discussion of any matters not included in the motion to go into Executive Session occurred during the Executive Session in violation of the Open Meetings Law, to state his or her concerns for the record. No concerns were stated.

**Resolution #6, 2012; Condemnation of Certain Real Property of the Senteney Family Trust**

RESOLUTION # 6, 2012

A RESOLUTION OF THE CITY OF DELTA AUTHORIZING THE  
CONDEMNATION OF CERTAIN REAL PROPERTY OF THE  
SENTENEY FAMILY TRUST FOR THE CITY'S CONFLUENCE  
DRIVE PROJECT

was read by the Clerk.

Director Hatheway stated that this concerns the Senteney Family Trust parcel that is located on the south end of the project where it ties back into Highway 50. Staff has tried on numerous occasions to negotiate a price based on fair market value. The representative for Senteney Family Trust has turned down all offers that have been previously offered. At this point all options have been exhausted and staff is recommending moving forward with condemnation actions against the Senteney Family Trust.

Attorney Schottelkotte stated he supports that recommendation.

It was moved by Councilmember Cooper and seconded by Councilmember Raley to adopt Resolution #6, 2012 for condemnation for certain real property of the Senteney Family Trust. Roll call vote: Councilmembers Cooper, aye; Penick, aye, Raley, aye, Jurca, aye and Sisson, aye. Motion carried.

**Regular Meeting, Delta City Council, June 18, 2012 (Cont.)**

**Resolution #6, 2012 (cont.)**

Councilmember Penick questioned if a motion needs to be made to allow the City Attorney to confer with the City Manager with a settlement option should that present itself.

Attorney Schottelkotte explained that if the City's last offer should come avail, he will get with the City Manager and also the Council.

**City Attorney Comments**

There were none.

**City Manager Comments**

Manager Black reported on the following items:

- The City has received an invitation for the Hartland Diversion Dam Dedication.
- The Financial Task Force next meeting is June 25<sup>th</sup> at 5:30pm. They are looking at different ways of raising funds for the City.
- Steve Glammeyer will be Acting City Manager during his absence.
- The destination imagination teams from Lincoln Elementary sent a thank you letter for Council's donation.
- He has been attending meetings regarding Eagle Net.

**Councilmember Comments**

Councilmember Cooper stated that she has received several compliments on the flowers.

The meeting was adjourned at 8:52 p.m.

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Jolene E. Nelson, City Clerk

# Memo

Date: June 27, 2012  
To: Mayor Sisson and Council  
From: Wilma Erven, Culture & Recreation Director  
Subject: Wellness Pool Design for Recreation Center

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*Wilma Erven*

## **Recommendation**

Staff recommends awarding a contract for the Design Development of a Wellness Pool area for the Recreation Center to Barker Rinker Seacat Architecture for a total amount not to exceed \$47,600.

## **Background**

During the plastering project of the pools, the contractor brought it to our attention that the current Therapy Pool had several leaks in the floor area and the lining for piping of the jets was extremely decayed. At that time we had American Leak Detection come and camera the jets and pool. He did confirm that the Therapy Pool was operating several years past its commercial life; normal commercial life is 5 - 7 years & with excellent care can be stretched to 7 - 10 years. Our Therapy Pool is 20 years old.

While the architects were designing the installation of the Pool Pak unit that was recently replaced, Council approved a systemic design for a future Wellness Pool area, so the adequate size HVAC unit would be installed to accommodate any future expansion of the Pool. A Wellness Pool was designed in the overall Master Plan with further pool amenities. Due to the cost of the Pool Expansion as a whole, staff felt the true need was just for the Wellness Pool area. Now with the immediate need for the Therapy Pool, staff is recommending doing the design just for the Wellness Pool area.

Barker Rinker Seacat Architecture was the firm that was awarded the bid for the Recreation Center's Master Plan. Due to their having all of the preliminary design, mechanical and electrical information, which will be a cost savings, staff would like to recommend that the City contract with Barker Rinker Seacat Architecture to proceed with the Design Development stage of a Wellness Pool area, so that staff can work with City Council on looking at budgeting to replace the Therapy Pool in 2013.

## **Costs**

The cost for this Design Development stage would be not to exceed \$47,600 from Barker Rinker Seacat Architecture, Denver, CO. Staff estimated the cost during the budget process at \$46,000 and it is in the 2012 budget. The remaining \$1,600 would be acquired from the budget remaining from the pool plaster project.

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**Actions To Be Taken If Approved**

Staff will issue a Notice of Award and forward our standard professional services contract agreement to the firm for signatures. Once signed and the City Attorney has reviewed and approved, then staff will issue a Notice to Proceed and the project will be scheduled.

**Suggested Motion**

I move the City award the Design Development contract for the Wellness Pool area expansion of the Recreation Center to Barker Rinker Seacat Architecture for the amount to not exceed \$47,600 and authorize the City Manager to sign the contract.

**Exhibit A – Scope of Services, Assumptions and Compensation**  
**Wellness Pool Expansion – Design Development**  
**Bill Heddles Recreation Center in Delta, Colorado**  
**June 14, 2012**  
**Barker Rinker Seacat Architecture**

**Project Scope and Assumptions**

This exhibit defines services for DESIGN DEVELOPEMENT OF a 6,000 sf expansion to include a new Wellness Pool. It is anticipated that services for Construction Documents and Construction Administration will be provided under subsequent agreement. The project is as shown on concept documents dated 06.13.12 attached:

- Mechanical scope
  - o Extension of ductwork from recently installed new HVAC unit
  - o Deck drains
  - o Plumbing and HVAC work associated with new pool equipment
- Electrical scope
  - o Lighting of expanded area
  - o Power and controls coordination of new pool equipment
- Other Assumptions
  - o The project will be constructed by a General Contractor (Contractor) selected through a CMGC process at approx 50% completion of design documents. The Architect will assist in preparing solicitations for bids.
  - o A preliminary overall project budget estimate of \$2.15 has been made for this project and is attached. Should bids for the work exceed the Owner's allowed budget the Owner shall:
    - Authorize an increase in the budget
    - Authorize re-bidding
    - In consultation with the Architect, consider and agree to revisions in the scope of the work to reduce the cost.
    - The Architect's obligations will be limited to providing services and modifications for these options.
  - o The duties of the Owner will include:
    - Design phase:
      - Periodic review of Architect's work and approval to proceed to next steps
      - Limited technical field confirmation assistance, where appropriate, to reduce time requirements for Architect and consultants on-site
      - Coordination of written requirements to bidders regarding Owner procurement policies
    - Design of structural floor systems

**Proposed Scope of Services**

The Architect shall provide professional services described below consistent with professional skill and care ordinarily provided by Architects practicing in the same area under similar circumstances.

- Final Design Phase
  - o Kick-off Meeting to review prior design work and including:
    - Field confirmation to document existing conditions
    - Finalize project requirements with Owner

**Exhibit A – Scope of Services, Assumptions and Compensation**  
**Wellness Pool Expansion – Design Development**  
**Bill Heddles Recreation Center in Delta, Colorado**  
**June 14, 2012**  
**Barker Rinker Seacat Architecture**

- Review aquatics design and confirm any adjustments for this phase
- Review a project estimate with the Owner to be agreed as basis for the work
- Develop Design
  - Develop design for all portions of the project including pool, building envelope, mechanical and electrical systems
  - Update the project estimate
  - Architect and Aquatics designer to conduct on-site review with Owner to review all as basis to proceed to final construction documents
- CMGC Selection Process
  - Assist the owner in development process to solicit interest and qualifications
  - Review submissions and shortlist for interview
  - Assist with interviews
  - Coordinate with selected CMGC to update overall project budget

**Proposed Schedule**

The design work is anticipated to require 5-7 weeks from notice to proceed.

**Compensation for Services**

We propose to provide services as described for a fee of \$43,600. Fees by consultant are shown below. Compensation will be made on a monthly basis on a percentage complete basis. Reimbursable expenses will be invoiced for travel, delivery and document reproduction expenses at cost plus 10%.

<b>Discipline</b>	<b>DD</b>
<b><u>Consultants</u></b>	
Structural	\$4,500
Mechanical	\$3,800
Electrical	\$3,000
Aquatics	\$15,600
Specifications	
Local Architect	
Interior Design & FFE	\$1,000
Total Consultants	\$27,900
w/ 10% Coord Mark-up	\$30,600
<b><u>Architecture &amp; Proj Mgt</u></b>	\$13,000
<b>Total Fee/ Phase</b>	<b>\$43,600</b>
Reimbursable Expenses allowance	\$4,000

**RESOLUTION NO. \_\_\_\_\_, 2012**

**A RESOLUTION OF THE CITY OF DELTA TO ACQUIRE OIL, GAS AND MINERAL RIGHTS IN THE REAL PROPERTY BEING ACQUIRED THROUGH CONDEMNATION PROCEEDINGS FOR THE CITY'S CONFLUENCE DRIVE PROJECT.**

Whereas, pursuant to Ordinance No.4 (2012), the City of Delta has petitioned the Delta County District Court in Case No. 12 CV 72 for condemnation of certain real property to enable development of a new public roadway known as Confluence Drive; and

Whereas, the property subject to the pending condemnation proceeding is titled in the name of the Family Household Trust dated January 19, 2005; and

Whereas, additional condemnation proceedings may need to be filed by the City to acquire other properties needed for development of the same public roadway (Confluence Drive); and

Whereas, C.R.S. 43-1-209 provides that oil, gas and mineral resources in real property shall not be acquired for roadway purposes through condemnation proceedings unless the acquiring governmental entity finds such acquisition to be necessary for subsurface support; and

Whereas the City Council of Delta has determined that there is an actual need to acquire the oil, gas and mineral rights in and under the subject real property of the aforementioned Trust and other properties in order to ensure adequate support for the surface areas being acquired; and

Whereas the oil, gas and mineral resources in all properties needed for the Confluence Drive project appear to have no material commercial value or exploitability; and

Whereas the acquisition of the oil, gas and mineral rights deemed necessary by this resolution will otherwise promote the public health, safety and welfare.

NOW, THEREFORE, be it resolved by the City Council of the City of Delta, Colorado that, for the reasons stated hereinabove, the status of title to the real property sought by the City from the said Family Household Trust and other owners through condemnation proceedings for the Confluence Drive project shall, in all cases, be fee simple absolute to include all oil, gas and mineral rights and resources therein and thereunder.

Adopted this \_\_\_\_ day of \_\_\_\_\_, 2012.

The City of Delta, Colorado

By: \_\_\_\_\_  
Mayor

Attest:

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



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360 Main St. • Delta, Colorado 81416 • Phone (970) 874-7566 • Fax (970) 874-8776

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## MEMO

To: City Council, City Manager  
From: Jolene E. Nelson City Clerk  
Date: June 29, 2012  
Subject: Hotel/Restaurant Liquor License Renewal for Delta El Tapatio, Inc./DBA  
El Tapatio

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### **Recommendation**

Staff recommends approval of the Hotel/Restaurant License Renewal for Delta El Tapatio Inc./DBA El Tapatio located at 353 Main Street. The Police Department's report and recommendation is attached.

### **Background**

The current liquor license expires August 19, 2012.

### **Cost**

There is no cost to the City to renew this license. The applicant has paid the \$500 renewal fee to the State, and the City renewal fee of \$150 along with the City's \$400 liquor occupation tax.

### **Action to be Taken if Approved**

The Mayor and Clerk will sign the renewal application, and the Clerk will mail it to the State, who will review the application and issue the State license.

### **Suggested Motion**

I move to approve the hotel/restaurant liquor license renewal for Delta El Tapatio Inc./DBA El Tapatio.

**LIQUOR OR 3.2 BEER LICENSE  
 RENEWAL APPLICATION**



DELTA EL TAPATIO INC  
 EL TAPATIO  
 353 MAIN ST  
 DELTA CO 81416-1815

License Number 12-77930-0000	License Type 1970
Liability Information 18 011 721110 C 082008	
Business Location 353 MAIN ST DELTA CO	
Current License Expires AUG 19, 2012	
<b>DEPARTMENTAL USE ONLY</b>	
Total Amount Due	
Total Paid \$	Date

- This renewal reflects no changes from the last application. Complete page 2 and file now!
- Yes there are changes from the last application.** If applicant is a Corporation or Limited Liability company, use DR 8177 and send in with this renewal. Any other changes of ownership require a transfer of ownership. See your Local Licensing Authority immediately.

Wholesaler, manufacturer, importer, and public transportation system license renewals do not need Local Licensing Authority approval and must be returned directly to the Colorado Department of Revenue at least 30 days prior to the current license expiration date.

**This application for renewal must be returned to your CITY OR COUNTY Licensing Authority at least 45 days prior to the expiration date of your current license. Failure to do so may result in your license not being renewed. Include both pages of this renewal and payment.**

**OATH OF APPLICANT**

I declare under penalty of perjury in the second degree that this application and all attachments are true, correct, and complete to the best of my knowledge.

Authorized Signature <i>James E. [Signature]</i>	Date 06-12-12	Business Phone 970-874-41100
Title Owner	Sales Tax Number * 12-77930	

**REPORT AND APPROVAL OF CITY OR COUNTY LICENSING AUTHORITY**

The foregoing application has been examined and the premises, business conducted and character of the applicant are satisfactory, and we do hereby report that such license, if granted, will comply with the provisions of Title 12, Articles 46 and 47, C.R.S.  
**THEREFORE THIS APPLICATION IS APPROVED.**

Local Licensing Authority for	Date
Signature	Title
	Attest

DO NOT DETACH

DO NOT DETACH

DO NOT DETACH

**LIQUOR OR 3.2 BEER LICENSE  
 RENEWAL APPLICATION**

Make check payable to: Colorado Department of Revenue. The State may convert your check to a one time electronic banking transaction. Your bank account may be debited as early as the same day received by the State. If converted, your check will not be returned. If your check is rejected due to insufficient or uncollected funds, the Department of Revenue may collect the payment amount directly from your banking account electronically.

Business Name	LICENSE NUMBER (Use for all reference)		PERIOD
EL TAPATIO	12-77930-0000		08-13
TYPE OF LICENSE ISSUED HOTEL AND RESTAURANT LIQUOR LICENSE - MALT, VINOUS, AND SPIRITUOUS	CASH FUND	STATE FEE	CITY 85% OAP 2180-100(999)
	2320-100(999) \$ 50.00	1970-750(999) \$ 25.00	\$ 425.00

SUB-TOTAL \$ 500.00  
 ADD \$100.00 TO RENEW RETAIL WAREHOUSE STORAGE PERMIT 2210-100(999) \$ \_\_\_\_\_  
**TOTAL AMOUNT DUE \$ \_\_\_\_\_**

## ATTACHMENT TO LIQUOR OR 3.2 BEER LICENSE RENEWAL APPLICATION

**This page must be completed and attached to your signed renewal application form.  
 Failure to include this page with the application may result in your license not being renewed.**

Trade Name of Establishment <b>DELTA EL TABAJO INC</b>		State License Number <b>12-77930-0000</b>
1. Operating Manager <b>FRANCISCO ESPINOZA</b>	Home Address <b>3658 RIDGE DR G. J CO 81506</b>	Date of Birth [REDACTED]
2. Do you have legal possession of the premises for which this application for license is made? Are the premises owned or rented: <u>RENTED</u> If rented, expiration date of lease: <u>2013</u>		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
3. Has there been any change in financial interest (new notes, loans, owners, etc.) since the last annual application? If yes, explain in detail and attach a listing of all liquor businesses in which these new lenders or owners, (other than licensed financial institutions) are materially interested.		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
4. Since the date of filing of the last annual application, has the applicant, or any of its agents, owners, managers, principals, or lenders (other than licensed financial institutions), been convicted of a crime? If yes, attach a detailed explanation.		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
5. Since the date of filing of the last annual application, has the applicant, or any of its agents, owners, managers, principals, or lenders (other than licensed financial institutions), been denied an alcoholic beverage license, had an alcoholic beverage license suspended or revoked, or had interest in any entity that had an alcoholic beverage license denied, suspended or revoked? If yes, attach a detailed explanation. <i>1 more restaurant</i>		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
6. Does the applicant, or any of its agents, owners, managers, principals, or lenders (other than licensed financial institutions), have a direct or indirect interest in any other Colorado liquor license (include loans to or from any licensee, or interest in a loan to any licensee)? If yes, attach a detailed explanation. <i>4 more restaurants</i>		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
7. Corporation or Limited Liability Company (LLC) or Partnership applicants must answer these questions. Since the date of filing of the last annual license application: (a) Are there, or have there been: any officers or directors; or managing members; or general partners added to or deleted from applicant for renewal of a 3.2 beer or liquor license? (b) Are there or have there been: any stockholders with 10% or more of the issued stock of the Corporation; or any members with 10% or more membership interest in the LLC; or any partners with 10% or more interest in the partnership added to or deleted from the applicant for renewal of a 3.2 beer or liquor license? (c) If Yes to (a) or (b), complete and attach Form DR 8177: Corporation, Limited Liability Company or Partnership Report of Changes, and all supporting documentation, and fees your Local Licensing Authority immediately.		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
8. Sole proprietorships, Husband-Wife Partnerships or Partners in General Partnerships: EVIDENCE OF LAWFUL PRESENCE Each person identified above must complete and sign the following affidavit. Please make additional copies if necessary. Each person must also provide a copy of their driver's license or state issued identification card. In lieu of form DR 4679, the undersigned swears or affirms under penalty of perjury under the laws of the State of Colorado that (check one): <input checked="" type="checkbox"/> I am a United States Citizen <input type="checkbox"/> I am not a United States Citizen but I am a Permanent Resident of the United States <input type="checkbox"/> I am not a United States Citizen but I am lawfully present in the United States pursuant to Federal Law <input type="checkbox"/> I am a foreign national not physically present in the United States I understand that this sworn statement is required by law because I have applied for a public benefit. I understand that state law requires me to provide proof that I am lawfully present in the United States prior to receipt of this public benefit. I further acknowledge that making a false, or fraudulent statement or misrepresentation in this sworn affidavit is punishable under the criminal laws of Colorado Revised Statute 18-8-503 and it shall constitute a separate criminal offense each time a public benefit is fraudulently received.		
Signature <i>Francisco Espinoza</i>	Printed name <b>FRANCISCO ESPINOZA</b>	Date <b>06.12.12</b>

EL TAPATIO LLC

(GJ → Parachute)

1145 NORTH AVE

~~GJ CO 81501~~

FRUITA EL TAPATIO INC

402 JURASK AVE

FRUITA CO 81521

DELTA EL TAPATIO INC

353 MAIN ST

DELTA CO 81416

35TH AVENUE CAFE INC

73 SIPPRELLE DR STE A

PARACHUTE CO 81635



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**LIQUOR LICENSE RENEWAL RECOMMENDATION**

To: City Council

Re: Application of Delta El Tapatio, Inc.

DBA: El Tapatio

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The report sheets show the following liquor violations for the past twelve months for the above named applicant:

**No liquor violations in the past twelve months.**

Remarks:

Police Department recommendation:

**Recommend liquor license renewal.**

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Robert Thomas, Chief of Police