



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

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**

**August 7, 2012
7:00 p.m.**

- A. Pledge of Allegiance**
- B. Changes to the Agenda**
- C. Minutes**
- D. Citizen Comments**
- E. Public Hearing: Special Events Permit Application; (Nelson)
Delta Elks Lodge #1235**
- F. 3.2% Beer Retail License Renewal: City Market #4 (Nelson)**
- G. Resolution #14, 2012; Appointment to MEAN Board and Management Committee**
- H. Purchase Contract with Senteney Family Trust**
- I. Confluence Drive Contract**
- J. Council Bill #14, 2012; Second and Final Reading (Walker)
Sign Code Regulations**
- K. Council Bill #15, 2012; Second and Final Reading (Walker)
Cluster Development, Planned Unit and Zero Lot Line Developments**
- L. Council Bill #16, 2012; Second and Final Reading (Walker)
Burning Restrictions**
- M. City Attorney Comments**
- N. City Manager Comments**
- O. 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 5:30 p.m. Also present were Councilmembers Bill Raley, Robert Jurca, Mary Cooper, and Ray Penick along with Interim City Manager Glen Black. A meeting notice was posted in the south window at City Hall at least twenty-four hours prior to the meeting.

Executive Session

It was moved by Councilmember Jurca and seconded by Councilmember Raley to convene an 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) and for discussion of a personnel matter under CRS Section 24-6-402(4)(f) and not involving any specific employees who have requested discussion of the matter in open session; any member of this body or any elected official; the appointment of any person to fill an office of this body or of an elected official; or personnel policies that do not require the discussion of matters personal to particular employees; or more specifically discussion regarding City Manager position. All in favor, motion carried.

At 5:30 p.m., Mayor Sisson recessed the Regular Meeting and convened the Executive Session.

At 6:51 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 and Fred Rainquet. 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.

The meeting was immediately adjourned.

Jolene E. Nelson, City Clerk

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

There were none.

Minutes

It was moved by Councilmember Penick and seconded by Councilmember Jurca to approve the minutes of July 3, 2012 meeting as submitted by the Clerk. All in favor, motion carried.

Citizen Comments

There were none.

Policy and Procedures Manual

Human Resources Director Jeri Karsten reported that these policies and procedures have been in place over the years. They have been compiled together and put into a manual form. Staff is requesting approval to implement these into the manual form. She stated that staff and the City Attorney have them.

Councilmember Penick questioned the cell phone allowance policy. He stated that there is nothing mentioned of a review for usage over 50 minutes.

Ms. Karsten explained the choices that are offered.

Councilmember Penick stated that if the employee is not using the minutes that they should be cut back on the stipend.

It was moved by Councilmember Cooper and seconded by Councilmember Penick to allow the Interim City Manager to implement the City of Delta Policies and Procedures Manual. All in favor, motion carried.

Mayor Sisson recognized Ms. Karsten's retirement and presented her with a vase for her dedicated service to the City of Delta.

Approval of Permit for Fireworks Show on July 28th, 2012

City Clerk Jolene Nelson explained that the Delta Volunteer Fire Department has submitted a request for a permit to conduct a fireworks show on July 28th, 2012. Council issued a permit for

Regular Meeting, Delta City Council, July 17, 2012 (Cont.)

Approval of Permit for Fireworks Show on July 28th, 2012 (cont.)

a fireworks show for the 4th of July that was cancelled by the Fire Board. The Fire Department now wants to conduct the show since the area has received some rain and there no longer is a concern about setting fires.

Councilmember Raley questioned if the fire department believes it is safer now to do the show.

Jason Cooley, Station Manager with the fire department, stated that there has been a lot of moisture in the area over the last couple of weeks. There were 13 active wildfires in the State of Colorado the Saturday before the 4th of July. They believed that with those fires taken into consideration it was safest to reschedule the show. He explained that they picked the 28th of July because it was between Deltarado Days, Sweet Corn Festival and the Delta County Fair. They also wanted to do it as close to the 4th of July as possible.

Councilmember Penick questioned if they considered another holiday.

Mr. Cooley stated that they have not talked about that. They have always done it on the 4th of July. They also have a show in Orchard City in August and ordering needs to coincide with that.

Councilmember Cooper questioned if they will have enough time to advertise properly.

Mr. Cooley stated that they have talked about having a banner in the Deltarado Day's parade as well as advertising in the local newspapers. He commented that word of mouth usually is pretty viable as well.

Manager Black stated that there is some concern that this might be a wasted effort to have it on the 28th. There have been comments about saving it for a bigger better show for next year.

Mr. Cooley explained the process of firing off the fireworks. To have a bigger show would require purchasing more equipment that would not be cost effective.

There was discussion regarding when to have the show.

It was moved by Councilmember Penick and seconded by Councilmember Raley to approve the permit for a fireworks show conducted by the Delta Volunteer Fire Department at Confluence Park on July 28th, 2012. All in favor, motion carried.

Public Hearing: Special Events Permit Application; Delta County Memorial Hospital Foundation

The Mayor closed the regular meeting and convened a public hearing.

The Clerk stated that the Delta County Memorial Hospital Foundation has submitted an application for a special events permit. They plan to have a fundraising event on September 22, 2012 from 7:00am to 3:00pm at Lion's Pavilion. The application states that they will be serving malt, vinous and spirituous liquor during that time. A sign notifying the public of this hearing was posted at the site as required by law. No comments have been received.

Regular Meeting, Delta City Council, July 17, 2012 (Cont.)

Public Hearing (cont.)

The Mayor called for public comment and when there was none he closed the public hearing and reconvened the regular meeting.

Councilmember Penick questioned if Chief Robert Thomas has any concerns.

Chief Thomas stated he does not.

It was moved by Councilmember Raley and seconded by Councilmember Jurca to approve the Delta County Memorial Hospital Foundation's application for a special events liquor permit for September 22, 2012. All in favor, motion carried.

Retail Liquor Store License Renewal; Spirits, Inc./DBA Moonshine Liquors

The Clerk reported that Moonshine Liquors has submitted their renewal application. The application is complete and all fees have been paid. The Delta Police Department has recommended renewal.

It was moved by Councilmember Penick and seconded by Councilmember Raley to approve the retail liquor store license renewal for Spirits, Inc./DBA Moonshine Liquor. All in favor, motion carried.

Sign for Devil's Thumb Golf Club

Golf Pro Rob Sanders stated that staff has been working with CDOT to install a new sign on Hwy 50 at H-38 Road directing citizens to the golf course and has come to an agreement. During the budget process last year there was no guarantee that an agreement could be reached, therefore staff did not budget for the signs. At this time staff is requesting Council approve the purchase of the signs with a supplemental appropriation.

Mr. Sanders reported that they submitted three different types of drawings to CDOT and that they approved a couple of the drawings. He showed pictures of how the signs would look.

Councilmember Penick questioned where the funds would be coming from.

Mr. Sanders stated that they will be taking some of the funds from the marketing account, however, this was not a budgeted item and there are not enough funds. He explained that staff has contacted local vendors to try to keep the cost amount down. Staff is recommending In Design Signs due to their references. The low bid did not provide any references. Staff felt uneasy proceeding with the lower bidder for that reason.

Councilmember Cooper stated it seems to be a large amount of money for the signs.

Mr. Sanders explained the type of sign and why the cost is higher.

There was discussion regarding the sign and the area that the sign will be installed at.

Regular Meeting, Delta City Council, July 17, 2012 (Cont.)

Sign for Devil's Thumb Golf Club (cont.)

Councilmember Cooper questioned where the supplemental funds would come from.

Manager Black stated that it would likely come from the ML&P fund.

Mr. Sanders explained that they have worked with the sign company to curb some of the cost as much as possible.

Mayor Sisson questioned if the money is there to do this.

Mr. Black explained that the golf course marketing budget was used for the THK study, therefore there is not enough monies to cover the cost of the signs. The deficit is approximately \$4518. The THK study did talk about marketing and it has been a nice collaboration with CDOT to allow these signs in their right of way. This will likely require a supplemental appropriation at the end of the year.

Councilmember Penick questioned for which amount.

Mr. Black stated it would be for approximately \$4518.

There was discussion regarding other marketing recommendations from the THK study that will likely be brought to Council in a future meeting.

Councilmember Cooper stated the City needs to advertise.

Councilmember Jurca stated that his biggest concern is how CDOT will look at the City if they don't move forward with this.

It was moved by Councilmember Cooper and seconded by Councilmember Jurca approve staff to proceed with purchasing signs for Devil's Thumb Golf Club. All in favor, motion carried.

Wastewater Treatment Plant Aeration System and Digester Cover Construction

Utilities Director Steve Glammeyer explained that this is the final step in the process of upgrading the digesters at the wastewater treatment plant. Last year Council approved a contract to design a new aeration system and covers for those digesters. Some of the equipment was purchased earlier this year.

Mr. Glammeyer also explained the bid process. These bids are to install the aeration equipment and build the cover system that has been designed by the engineers. Staff received four bids for this project. Velocity Constructors, Inc. was the lowest qualified bid. The budgeted amount for this project is \$800,000 which included the design, the equipment and this construction. The lowest bid will put this over budget in that line item just over \$5100. However, he stated he doesn't believe a supplemental appropriation will be needed due to the fact that various other projects that were budgeted that will likely not be completed this year. He also stated that if they do complete those projects there are reserves that could be used.

Regular Meeting, Delta City Council, July 17, 2012 (Cont.)

Wastewater Treatment Plant Aeration System and Digester Cover Construction (cont.)

Councilmember Jurca questioned if staff checked the references.

Mr. Glammeyer stated staff did contact the references. They gave a list of various projects they have completed.

It was moved by Councilmember Jurca and seconded by Councilmember Raley to award the aerobic digester improvements project to Velocity Constructors, Inc. in the amount of \$626,672 and authorize the City Manager to sign the forthcoming construction contract after approval from the City Attorney. All in favor, motion carried.

Council Bill #14, 2012; First Reading
Sign Code Regulations

Council Bill #14, 2012

AN ORDINANCE OF THE CITY OF DELTA, COLORADO,
ADDING AND MODIFYING VARIOUS PROVISIONS OF
CHAPTER 17.68 OF THE DELTA MUNICIPAL CODE
PERTAINING TO THE REGULATION OF SIGNS ON PROPERTY
WITHIN THE CITY LIMITS

was read by the Clerk.

Councilmember Raley addressed concerns regarding political signs. He stated the time frame that is in the ordinance doesn't take into consideration state and national elections. He suggested changing the amount of days before the election to allow the signs to be put up.

There was discussion regarding the time limit before elections as well as after.

City Attorney Michael Schottelkotte stated that they may find that they could be challenged for the time frame before the election.

Councilmember Raley stated that if you look at the current presidential election, they have been campaigning for a while now; however, they are just now starting to put out signs and there is 112 days to the election. He also stated maybe there shouldn't be a time frame.

Mr. Schottelkotte stated that if they don't have something on the tail end, then staff would not be able to enforce the ordinance.

There was more discussion regarding how many days to allow the signs before and after the election.

It was moved by Councilmember Raley and seconded by Councilmember Jurca to adopt Council Bill #14, 2012 with changing to the wording from 60 days to 180 days under section 1 on first reading. Roll call vote: Councilmembers Cooper, aye; Jurca, aye; Raley, aye; Penick, aye and Sisson, aye. Motion carried.

Regular Meeting, Delta City Council, July 17, 2012 (Cont.)

Council Bill #15, 2012 First Reading
Cluster Development, Planned Unit and Zero Lot Line Developments

Council Bill #15, 2012

AN ORDINANCE OF THE CITY OF DELTA, COLORADO, DELETING FROM CHAPTER 17.72 OF THE DELTA MUNICIPAL CODE ALL PROVISIONS REGARDING PLANNED UNIT DEVELOPMENTS AND RE-INCORPORATING SUCH PROVISIONS, WITH CERTAIN AMENDMENTS AND ADDITIONS PERTAINING ALSO TO CLUSTER DEVELOPMENTS AND ZERO LOT LINE DEVELOPMENTS, INTO CHAPTER 16.05 OF THE DELTA MUNICIPAL CODE

was read by the Clerk.

Planning Technician Sharleen Walker stated that this ordinance represents the discussions at a previous Council meeting. There are a few minor changes that the City Attorney inserted. The first change is in 16.05.050B, excepting provisions of subsection 16.04.070E.

Councilmember Penick presented these following changes:

- 16.05.010 second paragraph, work Lone should read as "Line".
- 16.05.050Ca, take out second permitted or right.
- 16.05.070A4 should be a separate paragraph not included under the reductions.

Mr. Schottelkotte agreed it should be a separate paragraph.

Ms. Walker stated there is also a change on page 5, 16.05.060A1, staff took out some redundancy.

It was moved by Councilmember Penick and seconded by Councilmember Cooper to adopt Council Bill #15, 2012 with the presented changes on first reading. Roll call vote: Councilmembers Cooper, aye; Jurca, aye; Raley, aye; Penick, aye and Sisson, aye. Motion carried.

Council Bill #16, 2012; First Reading
Burn Restrictions

Council Bill #16, 2012

AN ORDINANCE OF THE CITY OF DELTA, COLORADO REVISING CHAPTER 8.08 OF THE DELTA MUNICIPAL CODE WITH REGARD TO REGULATION OF BURNING ACTIVITIES WITHIN THE CITY LIMITS

was read by the Clerk.

Regular Meeting, Delta City Council, July 17, 2012 (Cont.)

Council Bill #16, 2012; First Reading (cont.)

Ms. Walker stated that this was also brought to Council at a previous meeting. At that time the City Attorney requested some additional time for review. The ordinance that is being brought to Council tonight has been prepared by the City Attorney. She explained that Mr. Schottelkotte did consult with Dan Reardon the fire marshal for the City of Delta. She also explained the changes in the ordinance.

Mr. Schottelkotte stated that he had some conceptual concerns. His concern is licensing an individual to light a fire in any zoning district in the City. He explained the limitations will help in clarifying the ability to burn.

Ms. Walker stated that agricultural burning is very limited.

Mr. Schottelkotte reported that he believes the limitations are not for safety concern but for air pollution.

It was moved by Councilmember Penick and seconded by Councilmember Jurca to adopt Council Bill #16, 2012 on first reading. Roll call vote: Councilmembers Cooper, aye; Jurca, aye; Raley, aye; Penick, aye and Sisson, aye. Motion carried.

2012 Concrete Replacement Project

Public Works Director Jim Hatheway stated that Phil Riley, the City's engineering technician, put this project together which is similar to concrete replacement projects that have been completed in the past. There are three applicants for the 50/50 cost share program. Staff put this out for bid and has received three bids. The low bid was submitted by All Concrete Solutions, LLC in the amount of \$29,560.82.

Councilmember Cooper questioned if the City has worked with them before.

Mr. Hatheway stated they have. The company was formally BPS, they went through some changes, however; it's the same company.

Councilmember Sisson questioned if this is a budgeted item and if it's within budget.

Mr. Hatheway stated that it is a budgeted item and they are within that budget amount.

It was moved by Councilmember Cooper and seconded by Councilmember Penick to award the 2012 concrete replacement project to All Concrete Solutions, LLC. All in favor, motion carried.

Exchange Agreement and Rail Relocation Agreement with Union Pacific

Mr. Hatheway reported that staff has come to the point with negotiations with the railroad that staff feels comfortable recommending to Council to move forward with this particular part of the Confluence Drive project. He explained that there are 7 acres that the City is trading with the railroad to relocate the railroad. The railroad will in turn trade 17 acres to the City that is needed for the corridor as well as 10 acres that they have identified as uneconomic remainders. There have been several iterations on the price of the exchange. Staff has worked with the railroad to

Regular Meeting, Delta City Council, July 17, 2012 (Cont.)

Exchange Agreement and Rail Relocation Agreement with Union Pacific (cont.)

get the price down from \$1.2 million to the \$855,000. He believes this price is the best staff is going to get for this negotiation. There is also an additional \$109,468 to compensate the railroad for lost lease payments.

Mr. Hatheway stated that at this time staff is recommending Council approve the dollar amounts so that they can move forward with finalizing the agreement with the railroad and authorize the City Manager to execute the exchange agreement and the track relocation agreement upon final City Attorney review.

Councilmember Cooper reported that Brad Rodenberg has worked very hard on this negotiation and has helped the City a considerable amount. Mr. Rodenberg believes this is the best the City is going to get.

Councilmember Jurca stated that this is a tough decision; however, the options have become severely limited.

It was moved by Councilmember Cooper and seconded by Councilmember Jurca to authorize the City Manager to execute the property exchange agreement and track relocation agreement with the Union Pacific Railroad for benefit of the Confluence Drive project; and approve the payment of \$855,000 for the exchange properties and the lease buyout of \$109,468. All in favor, motion carried.

City Attorney Comments

Attorney Schottelkotte reported that he has received a contract from Paul Senteney to sell property from the Senteney Family Trust to the City of Delta for the Confluence Drive project. He also commented on Jeri Karsten's retirement.

City Manager Comments

Manager Black thanked Jeri Karsten for her years of service. He also thanked staff for their efforts in getting Ms. Karsten's gift and cards for her retirement.

Councilmember Comments

Councilmember Cooper commented on the amount of money Council approved staff to spend tonight. She stated that without staff being fiscally responsible this would not be possible. She thanked staff for their efforts. She also presented an update on the Forest Service building.

Councilmember Penick stated that the next financial task force meeting is next Monday night. They are progressing forward with some recommendations. He stated that there are rumors out there that this task force is looking at firing individuals. That is not correct. They are looking at providing services to the citizens more efficiently.

Mayor Sisson thanked the utilities crew for working on the water break near his house.

Regular Meeting, Delta City Council, July 17, 2012 (Cont.)

Executive Session

It was moved by Councilmember Cooper and seconded by Councilmember Jurca to convene an 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. All in favor, motion carried.

At 8:01 p.m., Mayor Sisson recessed the Regular Meeting and convened the Executive Session.

At 9:17 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, Public Works Director Jim Hatheway and Brad Rodenberg via phone. 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.

The meeting was immediately adjourned.

Jolene E. Nelson, City Clerk



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

MEMO

To: City Council, City Manager
From: Jolene E. Nelson, City Clerk
Date: August 2, 2012
Subject: Delta Elks Lodge #1235 Special Events Permit Application

Recommendation

Staff recommends approving a Special Events Liquor Permit to the Delta Elks Lodge #1235 for their event scheduled on October 13, 2012.

Background

Delta Elks Lodge #1235 has submitted an application for a Special Events Liquor Permit at 563 Main Street on October 13, 2012. The application specifies that they plan to sell malt, vinous and spirituous liquor from 12:00 p.m to 2:00 a.m. The application is complete and the fees - \$35 to the City and \$25.00 to the State – have been paid. A sign notifying the public of this hearing has been posted at the site for at least ten days as required by law.

Cost

There is no cost to the City.

Action to be Taken if Approved

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

Suggested Motion

I move to approve the Delta Elks Lodge #1235 application for a special events liquor permit for October 13, 2012.

APPLICATION FOR A SPECIAL EVENTS PERMIT

IN ORDER TO QUALIFY FOR A SPECIAL EVENTS PERMIT, YOU MUST BE NONPROFIT AND ONE OF THE FOLLOWING (See back for details.)

- ✓ CHECK ONE: SOCIAL CHARTERED BRANCH, LODGE OR CHAPTER OF A NATIONAL ORGANIZATION OR SOCIETY
- FRATERNAL RELIGIOUS INSTITUTION
- PATRIOTIC PHILANTHROPIC INSTITUTION
- POLITICAL POLITICAL CANDIDATE
- ATHLETIC MUNICIPALITY OWNING ARTS FACILITIES

DO NOT WRITE IN THIS SPACE

LIAB TYPE OF SPECIAL EVENT APPLICANT IS APPLYING FOR:

2110 MALT, VINOUS AND SPIRITUOUS LIQUOR \$25.00 PER DAY

2170 FERMENTED MALT BEVERAGE (3.2 Beer) \$10.00 PER DAY

DO NOT WRITE IN THIS SPACE

LIQUOR PERMIT NUMBER

1. NAME OF APPLICANT ORGANIZATION OR POLITICAL CANDIDATE: Delta Elks Lodge #1235 State Sales Tax Number (Required): 04-D1745

2. MAILING ADDRESS OF ORGANIZATION OR POLITICAL CANDIDATE (include street, city/town and ZIP)
563 Main St
Delta CO 81416

3. ADDRESS OF PLACE TO HAVE SPECIAL EVENT (include street, city/town and ZIP)
563 Main St
Delta CO 81416

NAME	DATE OF BIRTH	HOME ADDRESS (Street, City, State, ZIP)	PHONE NUMBER
------	---------------	---	--------------

4. PRES/SECY OF ORG. or POLITICAL CANDIDATE
Joe Siennicki

21170 Pleasant Valley Rd Delta 874-1918

5. EVENT MANAGER
Dennis J Shreeves

8726 1900rd Delta CO. 874-3624

6. HAS APPLICANT ORGANIZATION OR POLITICAL CANDIDATE BEEN ISSUED A SPECIAL EVENT PERMIT THIS CALENDAR YEAR?
 NO YES HOW MANY DAYS? 2

7. IS PREMISES NOW LICENSED UNDER STATE LIQUOR OR BEER CODE?
 NO YES TO WHOM? Delta Elks 1235

8. DOES THE APPLICANT HAVE POSSESSION OR WRITTEN PERMISSION FOR THE USE OF THE PREMISES TO BE LICENSED? Yes No

LIST BELOW THE EXACT DATE(S) FOR WHICH APPLICATION IS BEING MADE FOR PERMIT

Date	Hours From	To	Date	Hours From	To	Date	Hours From	To	Date	Hours From	To
<u>10-13-12</u>	<u>12 P.m.</u>	<u>2 A.m.</u>									

OATH OF APPLICANT
 I declare under penalty of perjury in the second degree that I have read the foregoing application and all attachments thereto, and that all information therein is true, correct, and complete to the best of my knowledge.

SIGNATURE: Dennis J Shreeves TITLE: Manager

REPORT AND APPROVAL OF LOCAL LICENSING AUTHORITY (CITY OR COUNTY)
 The foregoing application has been examined and the premises, business conducted and character of the applicant is satisfactory, and we do report that such permit, if granted, will comply with the provisions of Title 12, Article 48, C.R.S., as amended. THEREFORE, THIS APPLICATION IS APPROVED.

LOCAL LICENSING AUTHORITY (CITY OR COUNTY) CITY COUNTY TELEPHONE NUMBER OF CITY/COUNTY CLERK

SIGNATURE TITLE DATE

DO NOT WRITE IN THIS SPACE - FOR DEPARTMENT OF REVENUE USE ONLY

LIABILITY INFORMATION

License Account Number	Liability Date	State	TOTAL

-750 (999)

OFFICE OF THE SECRETARY OF STATE
OF THE STATE OF COLORADO

CERTIFICATE

I, Scott Gessler, as the Secretary of State of the State of Colorado, hereby certify that, according to the records of this office,

DELTA LODGE, NO. 1235 BENEVOLENT AND PROTECTIVE ORDER OF ELKS OF THE UNITED STATES OF AMERICA

is a **Nonprofit Corporation** formed or registered on 09/03/1925 under the law of Colorado, has complied with all applicable requirements of this office, and is in good standing with this office. This entity has been assigned entity identification number 19871082199.

This certificate reflects facts established or disclosed by documents delivered to this office on paper through 11/29/2011 that have been posted, and by documents delivered to this office electronically through 12/05/2011 @ 11:56:50.

I have affixed hereto the Great Seal of the State of Colorado and duly generated, executed, authenticated, issued, delivered and communicated this official certificate at Denver, Colorado on 12/05/2011 @ 11:56:50 pursuant to and in accordance with applicable law. This certificate is assigned Confirmation Number 8106694.



Secretary of State of the State of Colorado

*****End of Certificate*****

Notice: A certificate issued electronically from the Colorado Secretary of State's Web site is fully and immediately valid and effective. However, as an option, the issuance and validity of a certificate obtained electronically may be established by visiting the Certificate Confirmation Page of the Secretary of State's Web site. <http://www.sos.state.co.us/biz/CertificateSearchCriteria.do> entering the certificate's confirmation number displayed on the certificate, and following the instructions displayed. Confirming the issuance of a certificate is merely optional and is not necessary to the valid and effective issuance of a certificate. For more information, visit our Web site. <http://www.sos.state.co.us/> click Business Center and select "Frequently Asked Questions."

This Deed, Made this twenty-first day of July in the year of our Lord one thousand nine hundred and eleven between

Annie B. McCartney

of the County of Delta

and State of Colorado, of the first part, and Delta Lodge Number 1235 Benevolent and Protective order of Elks,

of the County of Delta

and State of Colorado, of the second part:

WITNESSETH, That the said party of the first part, for and in consideration of the sum of Six thousand Dollars, to the said party of the first part in hand paid by the said party of the second part, the receipt whereof is hereby confessed and acknowledged, has granted, bargained, sold and conveyed, and by these presents do grant, bargain, sell, convey and confirm unto the said party of the second part, its successors heirs and assigns, forever, all the following described lot or parcel of land, situate, lying and being in the County of Delta and State of Colorado, to-wit:

lots numbered Thirteen (13), Fourteen (14), Fifteen (15) and Sixteen (16), in Block numbered Seven-ten (17, of the Town (now City) of Delta, Colorado.

TOGETHER with all and singular the hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and all the estate, right, title, interest, claim and demand whatsoever, of the said party of the first part, either in law or equity, of, in and to the above bargained premises, with the hereditaments and appurtenances.

TO HAVE AND TO HOLD the said premises above bargained and described, with the appurtenances, unto the said party of the second part, its successors heirs and assigns forever. And the said Annie B. McCartney party of the first part, for herself and her heirs, executors and administrators, do covenant, grant, bargain, and agree to and with the said party of the second part, its successors heirs and assigns, that at the time of the ensembling and delivery of these presents she is well seized of the premises above conveyed, as of good, sure, perfect, absolute and indefeasible estate of inheritance, in law, in fee simple, and has good right, full power and lawful authority to grant, bargain, sell and convey the same, in manner and form aforesaid, and that the same are free and clear from all former and other grants, bargains, sales, liens, taxes, assessments and incumbrances of whatever kind or nature soever;

and the above bargained premises, in the quiet and peaceable possession of the said party of the second part, its successors heirs and assigns, against all and every person or persons lawfully claiming or to claim the whole or any part thereof, the said party of the first part shall and will Warrant and Forever Defend.

IN WITNESS WHEREOF, The said party of the first part hath hereunto set her hand and seal the day and year first above written.

Signed, Sealed and Delivered in Presence of

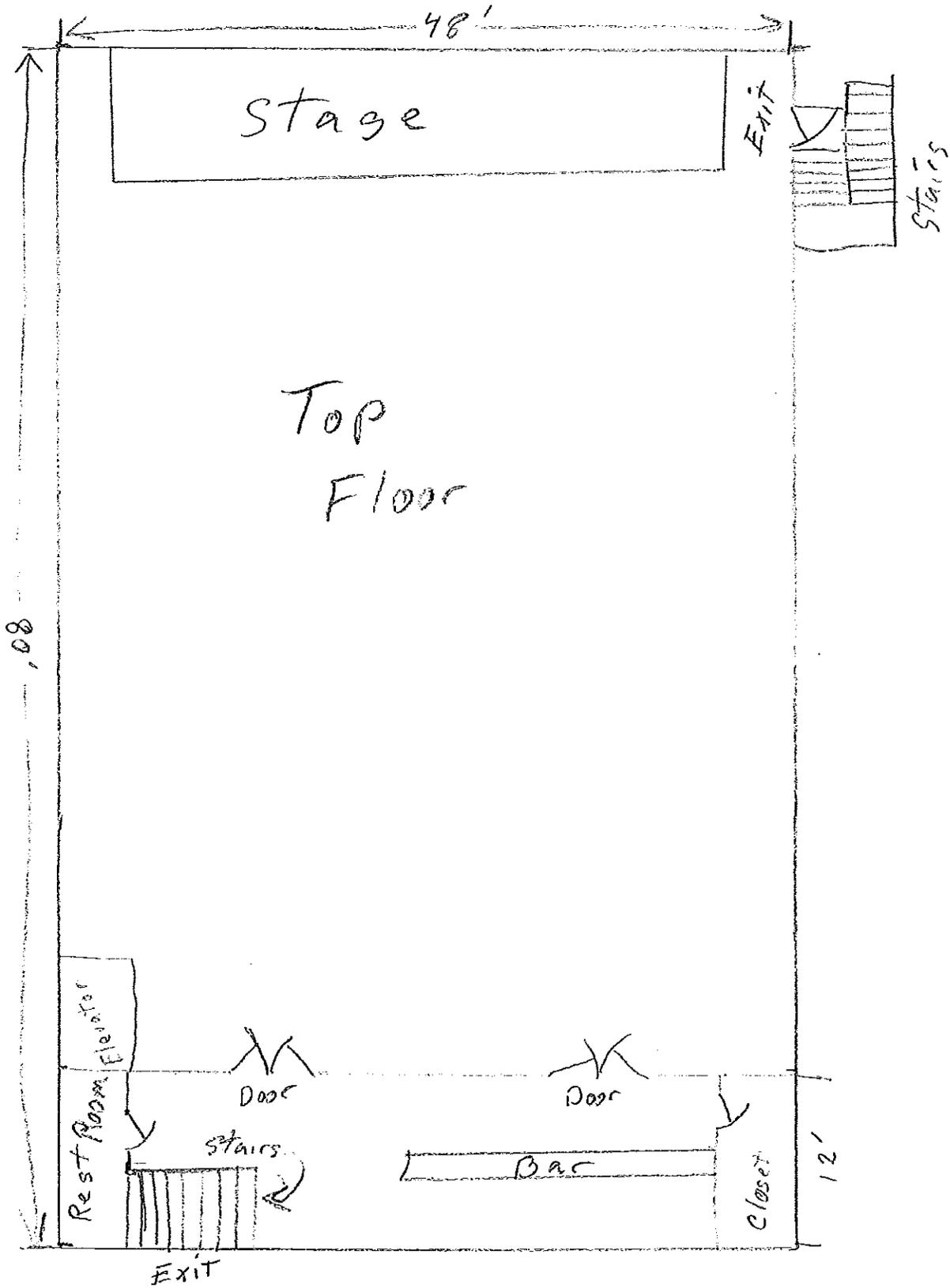
Annie B. McCartney Seal
Seal
Seal
Seal

STATE OF COLORADO, } ss. I, Ruby E. Turner a notary public
County of Delta in and for said County, in the State aforesaid, do hereby certify that Annie B. McCartney who is personally known to me to be the person whose name is subscribed to the annexed Deed, appeared before me this day in person and acknowledged that she signed, sealed and delivered the said instrument of writing as her free and voluntary act for the uses and purposes therein set forth.
Given under my hand and notarial seal, this 21st day of July A. D. 1911.
My commission expires June 11th 1914.

Notarial Seal

Ruby E. Turner
Notary Public

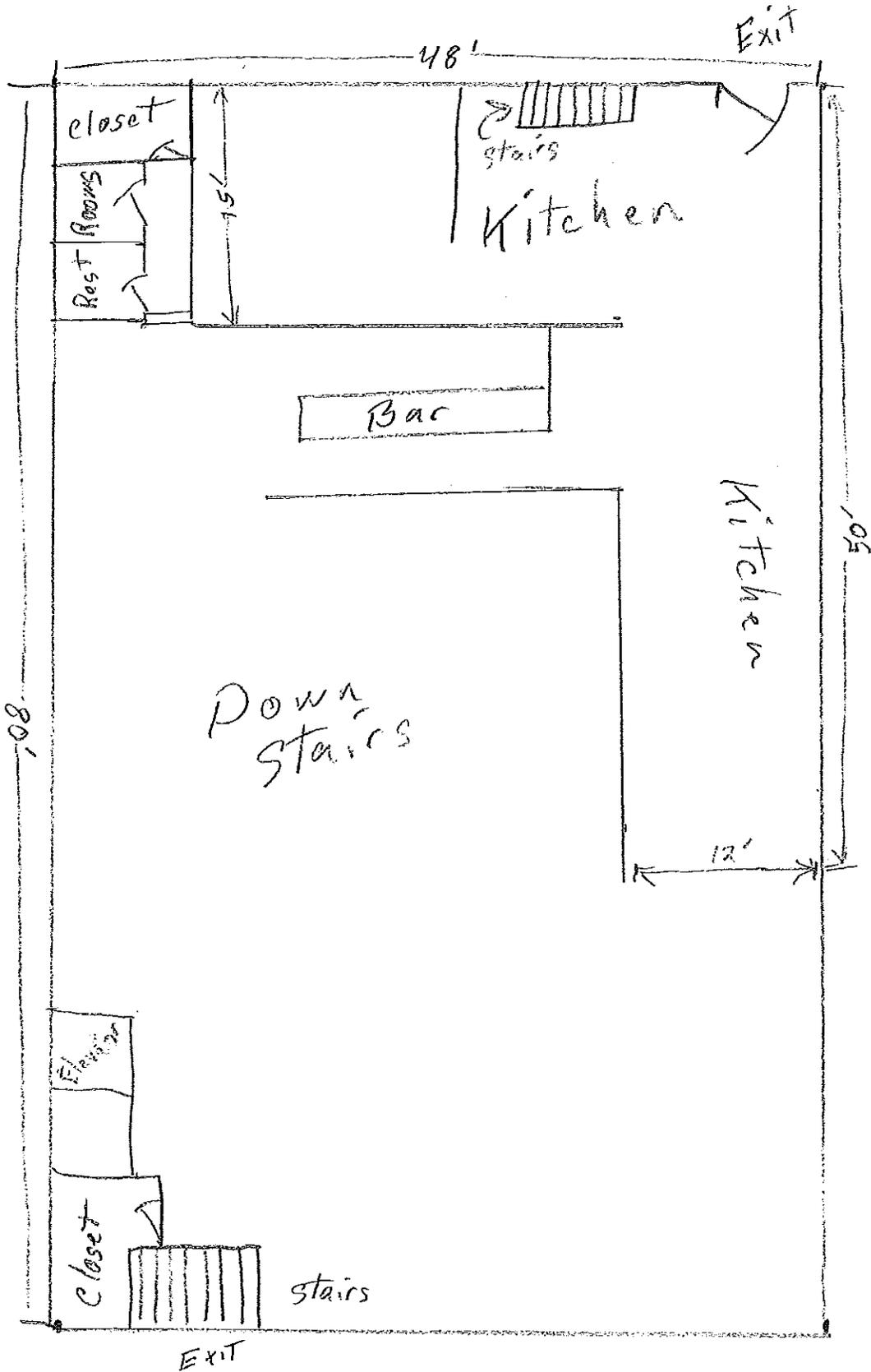
Delta EIKs #1235
563 Main Delta CO. 81416



1" = 10'

Delta EHS #1235

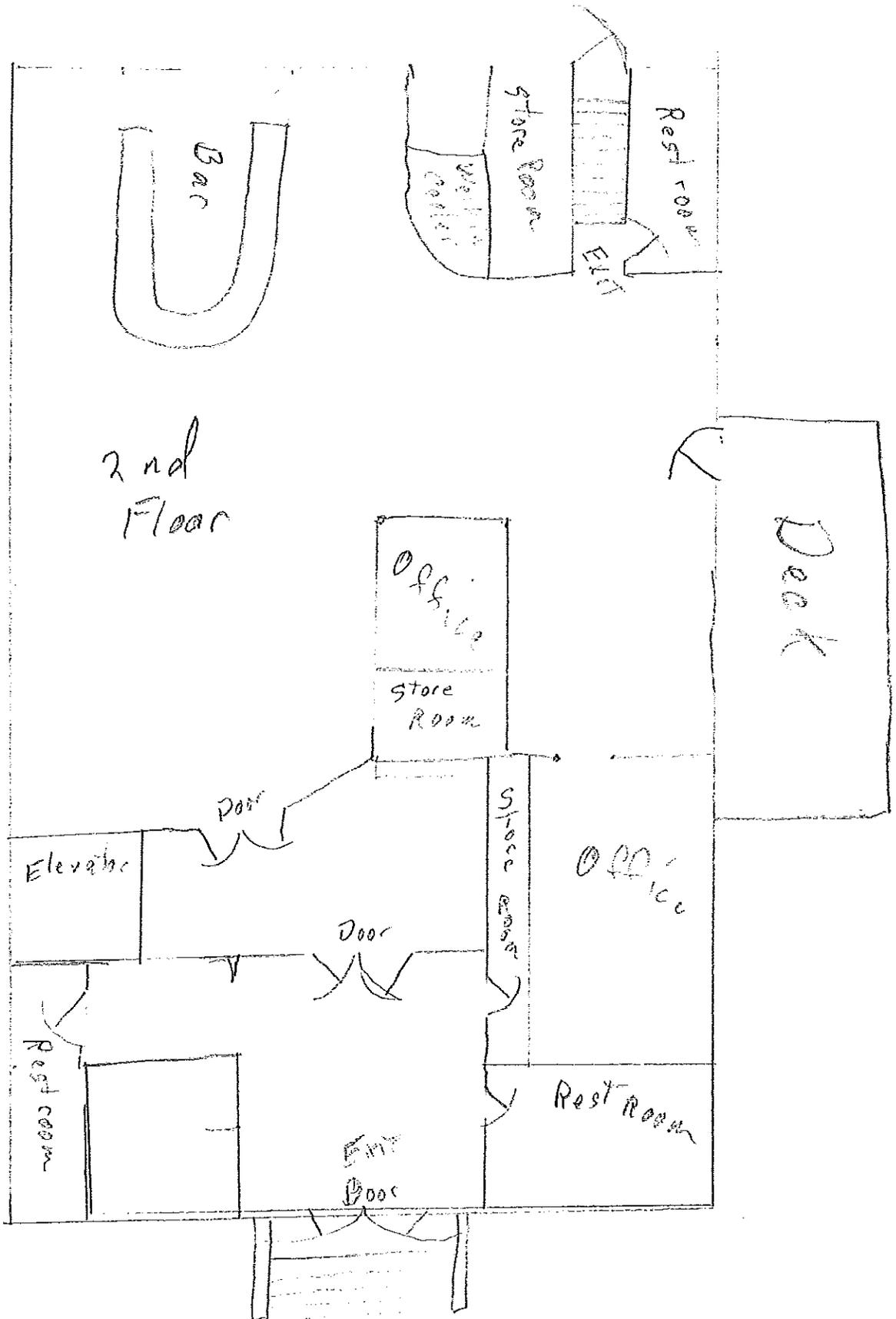
563 Main Delta CO 81416



1" = 10'

Delta FKS #1235

563 Main St Delta CO 81416





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

MEMO

To: City Council, City Manager
From: Jolene E. Nelson, City Clerk
Date: August 2, 2012
Subject: 3.2% Beer Retail License Renewal for City Market #4

Recommendation

Staff recommends approval of a 3.2% beer retail license renewal for City Market located at 122 Gunnison River Drive. The Police Department's report and recommendation is attached.

Background

The current 3.2% beer license expires September 17, 2012.

Cost

There is no cost to the City to renew this license. The applicant has paid the \$96.25 renewal fee to the State, and the City renewal fee of \$78.75, as well as the City's \$150 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 3.2% beer license renewal for City Market #4.

**LIQUOR OR 3.2 BEER LICENSE
 RENEWAL APPLICATION**



CITY MARKET #4
 KROGER-RASC TAX-BUS
 PO BOX 305103
 NASHVILLE TN 37230-5103

License Number 01-10779-0123	License Type 2122
Liability Information 18 011 445110 C 091800	
Business Location 122 GUNNISON RIVER D DELTA CO	
Current License Expires SEP 17, 2012	
DEPARTMENTAL USE ONLY	
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>Russ Dispense</i>	Date 5/16/12	Business Phone 615-232-9768
Title Vice President	Sales Tax Number 01-10779-0123	
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.

21

Business Name CITY MARKET #4	LICENSE NUMBER (Use for all reference) 01-10779-0123		PERIOD 09-13
TYPE OF LICENSE ISSUED 3.2 PERCENT BEER RETAIL LICENSE (OFF PREMISES)	CASH FUND 2320-100(999)	STATE FEE 2122-750(999)	CITY 85% OAP 2180-100(999)
	\$ 50.00	\$ 25.00	\$ 21.25

TOTAL AMOUNT DUE \$ 96.25

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 <i>City Market #404</i>		State License Number <i>01-10779-0123</i>
1. Operating Manager <i>Ed Abila</i>	Home Address <i>58109 Sawmill Mesa Rd., Delta, CO 81416</i>	
2. Do you have legal possession of the premises for which this application for license is made? Are the premises owned or rented: <u><i>owned</i></u> If rented, expiration date of lease: _____	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.	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.	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"/>
(b) Yes <input type="checkbox"/>	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
8. Sole proprietorships, Husband-Wife Partnerships or Partners in General Partnerships: <div style="text-align: center;">EVIDENCE OF LAWFUL PRESENCE</div> <p>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.</p> <p>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):</p> <p><input type="checkbox"/> I am a United States Citizen</p> <p><input type="checkbox"/> I am not a United States Citizen but I am a Permanent Resident of the United States</p> <p><input type="checkbox"/> I am not a United States Citizen but I am lawfully present in the United States pursuant to Federal Law</p> <p><input type="checkbox"/> I am a foreign national not physically present in the United States</p> <p>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.</p>		
Signature	Printed name	Date

Attachment to DR8401 for King Soopers or City Market 3.2% beer license renewal.

Question 6.

Dillon Companies, Inc., a Kansas Corporation, also holds 3.2% beer licenses for the following stores located in Colorado:

King Soopers, City Market, Mini Mart, Inc & Loaf 'N Jug



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

LIQUOR LICENSE RENEWAL RECOMMENDATION

To: City Council

Re: Application of City Market #4

DBA: _____

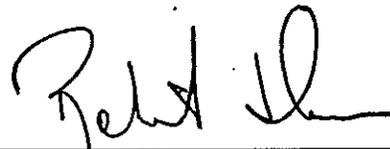
The report sheets show the following liquor violations for the past twelve months for the above named applicant:

No Liquor violations in the past twelve months.

Remarks:

Police Department recommendation:

Recommend liquor license renewal.



Robert Thomas, Chief of Police



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

MEMO

To: Mayor and Council
From: Steve Glammeyer, Utilities Director
Date: July 23, 2012
Subject: Resolution #14, 2012 - Appointment to MEAN Board and Management Committee

Recommendation

It is recommended that the Council adopt Resolution 14 appointing Steve Glammeyer as Director and Adam Suppes as Alternate Director to the MEAN Board of Directors and Management Committee.

Background

The Nebraska Power Board and the MEAN Board of Directors have approved the City's application to join the MEAN Board of Directors. Council had previously appointed Steve Glammeyer and Joe Kerby to serve as Director and Alternate at their meeting in February. Since Mr. Kerby has left the City, MEAN requires that a new Director and Alternate Director be appointed. Staff recommends that you appoint Steve Glammeyer as the Director and Adam Suppes as the Alternate Director.

Cost

There is no cost to the City.

Action to be Taken if Approved

Staff will submit the appropriate form to MEAN.

Suggested Motion

I move Council adopt Resolution #14, 2012 appointing Steve Glammeyer as Director and Adam Suppes as Alternate Director to the MEAN Board of Directors and Management Committee.

Resolution #14, 2012

Representative and/or Alternate Representative to MEAN Management Committee

WHEREAS, the City of Delta, State of Colorado, is a party to the Electrical Resource Pooling Agreement and, pursuant to the terms of such Agreement, it is the responsibility of the City of Delta to designate a representative and alternate representative to the Municipal Energy Agency of Nebraska Management Committee provided for under the terms of said Agreement.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Delta, State of Colorado, that:

1. The City Clerk is hereby directed to give written notice to the Municipal Energy Agency of Nebraska of the appointment of Steve Glammeyer as representative to said MEAN Management Committee.
2. The City Clerk is hereby directed to give written notice to the Municipal Energy Agency of Nebraska of the appointment of Adam Suppes as alternate representative to said MEAN Management Committee.

Director and/or Alternate Director to MEAN Board of Directors

This is to certify that the City Council of the City of Delta, State of Colorado duly appointed Steve Glammeyer to serve as director to represent the City of Delta on the Board of Directors of the Municipal Energy Agency of Nebraska. The appointment will run for a term of three (3) years with the powers and duties incident to such office. This certificate is issued in compliance with the Municipal Cooperative Financing Act contained in the Nebraska Revised Statutes §18-2401 et seq. (1987).

This is to certify that the City Council of the City of Delta, State of Colorado duly appointed Adam Suppes to serve as alternate director to represent the City of Delta on the Board of Directors of the Municipal Energy Agency of Nebraska. The appointment will run for a term of three (3) years with the powers and duties incident to such office. This certificate is issued in compliance with the Municipal Cooperative Financing Act contained in the Nebraska Revised Statutes §18-2401 et seq. (1987).

This is to certify that the appointments set out above were approved by the City Council of the City of Delta, State of Colorado, at their meeting on August 7th, 2012.

ATTEST:

Mayor

City Clerk

(SEAL)



MEMO

To: *Mayor and Council*

From: *Jim Hatheway, Public Works Director* 

Date: *7 August 2012*

Subject: *Confluence Drive Property Acquisitions*

RECOMMENDATION

The Public Works Department is recommending that the City move forward with purchasing the properties and interests listed below to meet the ROW needs for Confluence Drive.

BACKGROUND

Transportation Resource Services, Inc. and the City Attorney have completed negotiations as directed by city council for the purchase of property listed below. The properties and interests recommended for purchase are:

<i>Address/Location</i>	<i>Owner</i>	<i>Property Type/Interest</i>
South End of Project near new Hwy 50 intersection	Senteney Family Trust	Land – Partial Acquisition

COST

The contract price of \$15,000.00 will be paid from 80-19-42100.

ACTIONS TO BE TAKEN IF APPROVED

Staff requests that City Council approve the contract for the property listed.

SUGGESTED MOTION

I move the City approve the property acquisition contract with *Senteney Family Trust* for \$15,000.00 and authorize the City Manager to sign the contract to purchase said property. (Opposition to the motion would be indicated by a 'no' vote)

CONTRACT TO BUY AND SELL PROPERTY

This Contract, made and entered into this 17th day of July, 2012 by and between **Senteney Family Trust**, (hereinafter referred to as "Seller") and the **City of Delta**, a Colorado municipality, of 360 Main Street (P.O. Box 19) Delta, Colorado 81416 (hereinafter referred to as the "City") is to witness:

Recitals

Seller presently owns real property located in the Southwest Quarter of the Southeast Quarter of Section 24, Township 15 South, Range 96 West of the 6th Principal Meridian, City of Delta, County of Delta, State of Colorado. The parties to this Contract have agreed upon the following arrangements for the sale and purchase of a portion of Seller's real property as described in Paragraph 1 below.

Agreement

1. General Premises. For and in consideration of the total price of **Fifteen Thousand and NO/100 Dollars (\$15,000.00)**, to be paid as hereinafter provided, Seller agrees to sell and the City agrees to purchase the following real property (hereinafter referred to collectively as "the Property") located in Delta County, Colorado:

See attached Exhibit "A", legally describing, and Exhibit "A-1", depicting City of Delta Alternate Truck Route Parcel 16, in fee simple; and also,

See attached Exhibit "B", legally describing, and Exhibit "B-1", depicting City of Delta Alternate Truck Route Parcel 16A, in fee simple.

Also identified as: a portion of Delta County Assessor's Parcel No. 3457-244-00-005

Together with all improvements and fixtures thereon and appurtenances thereto. The Property shall be conveyed by Seller to the City by special warranty deed, and other appropriate legal instruments, at the time of closing of this contract. The consideration set forth herein is in full settlement of all and any damages, including any damages to the remainder, occurring to the Seller or Seller's property, and includes full compensation for the Seller's interest, either present or future, the interest of lienors, and any and all interests, legal or equitable, which are or may be outstanding. The Seller shall pay from the proceeds of this Contract or otherwise, and shall satisfy or remove other outstanding interests. The Seller has entered into this contract solely because the City has the power of eminent domain, and requires the Property for a public purpose.

2. Purchase Price and Payment Terms. The aforementioned purchase price of **\$15,000.00** plus fees for the closing agent's services related to this transaction, shall be fully paid by the City at closing in funds which comply with all applicable Colorado laws, including cash, electronic transfer funds, certified check, and/or cashier's check. Such payment shall be made to the Delta County Abstract Company acting as closing agent and trustee for the parties hereunder.

3. Evidence of Title. The City may secure a current commitment for the City's title insurance policy in an amount of its own choosing. Title insurance, if required, shall be secured by and at the expense of the City.

4. Title Review. The City shall have the right to inspect the aforementioned title documents. Written notice by the City of unmerchantability of title or of any other unsatisfactory title condition shown by the title documents shall be signed by or on behalf of the City and provided to the Seller. In addition to the title documents, Seller shall deliver to the City true copies of any and all leases and surveys in Seller's possession pertaining to the Property and shall disclose to the City all easements, liens or other title matters not shown by the public records of which Seller has actual knowledge prior to closing. The City shall have the right to inspect the Property to determine if third parties have any rights in the Property not shown by the public records. Written notice of any unsatisfactory conditions revealed by Seller's disclosures, or by such inspection conducted by the City, shall be signed by or on behalf of the City and given to Seller prior to the date of closing. If Seller does not receive any such notice from the City in advance of closing, the City shall be deemed to have accepted title subject to the existing conditions and rights of third parties revealed by Seller's disclosures or reasonably discernible from the City's inspection.

If Seller receives notice of any unmerchantability of title, or of any other unsatisfactory title conditions found by the City as provided in this Paragraph 4, Seller shall use reasonable efforts to correct said conditions prior to the date set for closing of this Contract. If Seller fails or is unable to correct such unsatisfactory conditions on or before the date of closing, this Contract shall then terminate unless the City instead elects to execute a written waiver of their objection to all such title conditions and proceed with closing.

5. Inspection. Upon execution of this Contract by the Seller, the City shall be permitted to enter upon the Property to perform site inspections and due diligence that the City deems necessary for its benefit and protection. The City acknowledges that Seller has made no material representations about the physical condition or quality of the Property. Unless this Contract sooner terminates as provided above, the City agrees to accept the Property at the time of the hereinafter provided possession transfer date in the physical condition in which it then exists. Until the time of said possession transfer date, Seller agrees to maintain the Property in its present condition, ordinary wear and use excepted.

6. Closing of Contract and Payment of Related Costs. Closing of this Contract shall occur at the Delta County Abstract Company in Delta, Colorado no later than **September 30, 2012.** The date, hour and place of closing shall be determined by the Delta County Abstract Company, as closing agent, and communicated to the parties. Seller and the City shall each execute such customary documentation as may be required by said closing agent. Fees for the closing agent's services shall be paid at closing by the City. All other customary closing costs and recording fees shall be paid at closing by the appropriate party. The parties shall arrange with their respective attorneys for the preparation of any special documentation contemplated by this Contract that is not customarily prepared by the closing agent as part of its closing services. Each of the parties shall pay their own respective attorney fees; provided, however that the City shall pay any attorney fee for its preparation of this contract. The City, at its sole discretion, may

extend the date of closing to secure those documents required to ensure the transfer of clear title to the City by providing written notice to the Seller in advance of closing

7. Transfer of Title. At the time of closing, Seller shall execute and deliver a good and sufficient special warranty deed, conveying to the City the title to the Property. Such Property shall be free and clear of all taxes through the date of closing of this Contract, and also free and clear of all liens, encumbrances, defects, exceptions and conditions other than those accepted by the City after disclosure thereof by Seller and/or by the City's title insurance commitment in accord with Paragraph 3 of this Contract, and those conditions that are reasonably apparent from the City's diligent inspection of the Property, and subject to building, zoning and other governmental regulations.

8. Taxes and Utilities. Any and all unpaid *ad valorem* taxes assessed against the entirety of the Seller's real property identified as Delta County Assessor's Parcel No. 3457-244-00-005 for the years prior to 2012 shall be paid at or before closing by Seller. Such taxes for year 2012 shall be prorated between the parties as of the date of closing of this contract, based upon the tax figure for the most recent date of assessment by the Delta County Assessor. Subject to the aforementioned proration obligation, the City shall be responsible for the timely payment of any and all taxes lawfully assessed upon the Property after closing of this Contract.

Utilities are not anticipated to be affected or transferred pursuant to this Contract. In the event any utility is subject to transfer from the Seller to the City, the costs of all utilities that are assessed to the Property prior to the date of closing and possession transfer shall be paid by Seller, and all such costs thereafter shall be paid by the City. Seller shall be entitled to recover any and all utility deposits made by them to utility providers prior to the date of transfer of possession.

9. Possession. Provided that the City's title commitment pursuant to Paragraph No. 3 identifies merchantable title, the Seller understands and agrees that the City will take possession of the Property free from all interests, including leasehold interests and tenancies, when the City tenders payment to the Seller by depositing the above-stated total offer of just compensation with the City's closing agent, Delta County Abstract Company. The Seller further understands and agrees that the City will be entitled to specific performance of this Agreement upon tender by the City of the agreed consideration.

10. Condition of Property and Risk of Loss. The Property shall be conveyed in the physical condition in which it presently exists, without any warranties or representations regarding such condition. Risk of loss by fire or other casualty affecting the improvements, if any, on the Property shall remain upon the Seller until the time of transfer of possession, whereupon such risk of loss shall pass to the City. If such loss occurs, the City shall be entitled to the full amount of any insurance proceeds receivable for the same.

11. Payment of Encumbrances. The Seller agrees that the consideration as agreed upon between the Seller and the City represents just compensation, and fully compensates the Seller for the Seller's fee simple title and conveyance of the Property. The Seller further acknowledges, understands and agrees that the City is not and will not be responsible for paying,

releasing or satisfying any judgment(s), lien(s) or other obligation(s) or indebtedness against the Property. The defense and/or settlement of claim(s) made by holders of any lien(s), judgment(s) or other obligation(s), whether by legal action or otherwise, for payment, satisfaction or release or payment of any contract term, provision or legal requirement is the sole responsibility of the Seller. The Seller understands, acknowledges and agrees that the beneficiaries of any unpaid mortgage(s), deed(s) of trust, taxes and/or other financial indebtedness secured by the Seller's Property may claim all or any portion of the compensation paid pursuant to this Contract. The Seller agrees to execute and deliver to the City any and all documents necessary to convey to the City clear, unencumbered title to the Property. Failure of the Seller to secure release or subordination of all outstanding interests to the satisfaction of the City prior to closing may, at the City's sole option, render this Contract null and void.

12. Remedies for Breach. This Contract requires specific performance by the Seller, and the City may enforce specific performance of this Contract in the event the Seller fails or refuses to perform. Time is of the essence regarding the performance of all terms and conditions of this Contract. In the event of material breach by either party, the non-defaulting party shall be entitled to all consistent legal and equitable remedies afforded by Colorado law. Further, in the event of any litigation arising out of this Contract, the Court shall award to the prevailing party all reasonable costs and expenses incurred by such party during the pertinent litigation, including attorney fees.

13. Termination. In addition to its other remedies provided above, the City may terminate this contract for any material breach by the Seller or for failure of any contingency specified in this Contract. In the event of such termination, the City reserves all right to acquire title and possession of the Property by condemnation under its power of eminent domain.

14. Contingency and Additional Provisions. The parties agree upon the following contingencies and additional terms and provisions:

(a) This contract shall be contingent in all respects upon approval of its terms by a majority of a quorum of the Delta City Council at a public meeting conducted by no later than August 31, 2012. If said approval is not obtained by said date, this contract shall fully terminate.

(b) The City is represented in this transaction by the City Attorney Michael Schottelkotte. Seller is hereby advised to seek independent counsel for any and all legal and tax questions regarding this transaction. It is specifically provided that the City shall pay the full cost of preparation of this contract. All other attorney fees shall be paid by the party or parties who actually incur them.

(c) The City, at its sole cost and expense, shall have a licensed surveyor monument with permanent survey pins the termini of "Line 2" otherwise identified as "L2" in the Line Table on Exhibit "B-1".

(d) The City will relocate the Seller's existing PVC irrigation pipe upon the Seller's remainder property, adjacent to the new fence contemplated in 14 (d) above, during construction of the Confluence Drive and ditch relocation associated therewith.

(e) During construction of Confluence Drive, the City shall re-construct the Seller's field access, including a culvert across the Delta Ditch, from the ditch access road along the existing UPRR right of way to the Seller's remainder property, at or about the south terminus of Parcel 16A.

(f) The City shall provide Seller with reasonable prior notice of its planned major construction activities upon the Property conveyed herein at least ten (10) days before they are commenced.

(g) Without incurring any significant expense of its own, Seller shall reasonably cooperate with the City's requests for assistance with removing existing title exceptions such as recorded easements, rights of way, boundary description errors, etc. listed for the Property.

(h) Facsimile signatures of the parties upon this contract shall be deemed valid for all purposes.

15. Assignment and Modification. Subject to the provisions of paragraph 14(e) above, no assignment or modification of the Contract by either party shall be permitted without the complete written consent of the other party.

16. Merger. This Contract contains the entire understanding of the parties regarding the subject matter; and there are no promises, covenants, warranties or other undertakings between them other than those expressly set forth herein. All prior discussions of the parties relating to the subject matter shall be deemed to be merged into this Contract.

17. Binding Effect and Survival of Provisions. This Contract shall be binding upon, and inure to the benefit of, the parties hereto and upon their respective heirs, survivors, successors, legal representatives and lawful assigns. Any obligation of this Contract which, by its terms, must be performed after closing of the Contract shall be deemed to survive the same.

SIGNATURE PAGE TO FOLLOW

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year first above-written.

Seller: **Senteney Family Trust**

BY: Paul F. Senteney
Paul F. Senteney

BY: Helen M. Senteney
Helen M. Senteney

TITLE: Trustee

TITLE: Trustee

THE CITY OF DELTA, COLORADO

By: _____
Glen Black, Acting City Manager

Telephone and fax information for notification purposes:

Sellers' phone: (970) 874-8320
City's phone: (970) 874-7566 Fax: (970) 874-8776

EXHIBIT A

SHEET 1 OF 2

RIGHT OF WAY DESCRIPTION PARCEL 16

A PARCEL OF LAND LOCATED IN THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 24, TOWNSHIP 15 SOUTH, RANGE 96 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF DELTA, COUNTY OF DELTA, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: THE LINE BETWEEN THE SOUTHEAST CORNER OF SECTION 24, TOWNSHIP 15 SOUTH, RANGE 96 WEST, 6TH P.M., MONUMENTED BY A 2-1/2 INCH ALUMINUM CAP STAMPED LS 17485, 1997, AND DT-20, MONUMENTED BY A 2-1/2 INCH DIAMETER ALUMINUM CAP STAMPED LS36067, BEARS N 42°53'45" W, A DISTANCE OF 5211.92 FEET, BEARINGS ARE BASED ON THE MESA COUNTY LOCAL COORDINATE SYSTEM KNOWN AS DCLCO2 (2009);

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 24; THENCE N 53°31'54" W A DISTANCE OF 2,080.50 FEET TO THE SOUTHEAST CORNER OF THAT PARCEL OF LAND DESCRIBED IN BOOK 435 AT PAGE 1567 OF THE DELTA COUNTY RECORDS AND LYING ON THE SOUTHWESTERLY RIGHT OF WAY LINE OF THE UNION PACIFIC RAILROAD, SAID POINT BEING THE POINT OF BEGINNING;

THENCE ALONG SAID SOUTHWESTERLY RIGHT OF WAY LINE, S 41°22'27" E, A DISTANCE OF 192.39 FEET;

THENCE N 52°52'35" W, A DISTANCE OF 243.77 FEET TO THE SOUTHERLY LINE OF SAID PARCEL OF LAND DESCRIBED IN BOOK 435 AT PAGE 1567;

THENCE ALONG THE SOUTHERLY LINES OF SAID PARCEL OF LAND THE FOLLOWING TWO (2) COURSES:

1. S 54°39'27" E, A DISTANCE OF 39.84 FEET;
2. N 59°40'33" E, A DISTANCE OF 40.20 FEET TO THE POINT OF BEGINNING;

CONTAINING AN AREA OF 3,946 SQUARE FEET OR 0.091 ACRES, MORE OR LESS.

SURVEYOR'S STATEMENT

I HEREBY STATE THAT THE ATTACHED PROPERTY DESCRIPTION WAS PREPARED BY ME OR UNDER MY RESPONSIBLE CHARGE AND IS ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF.

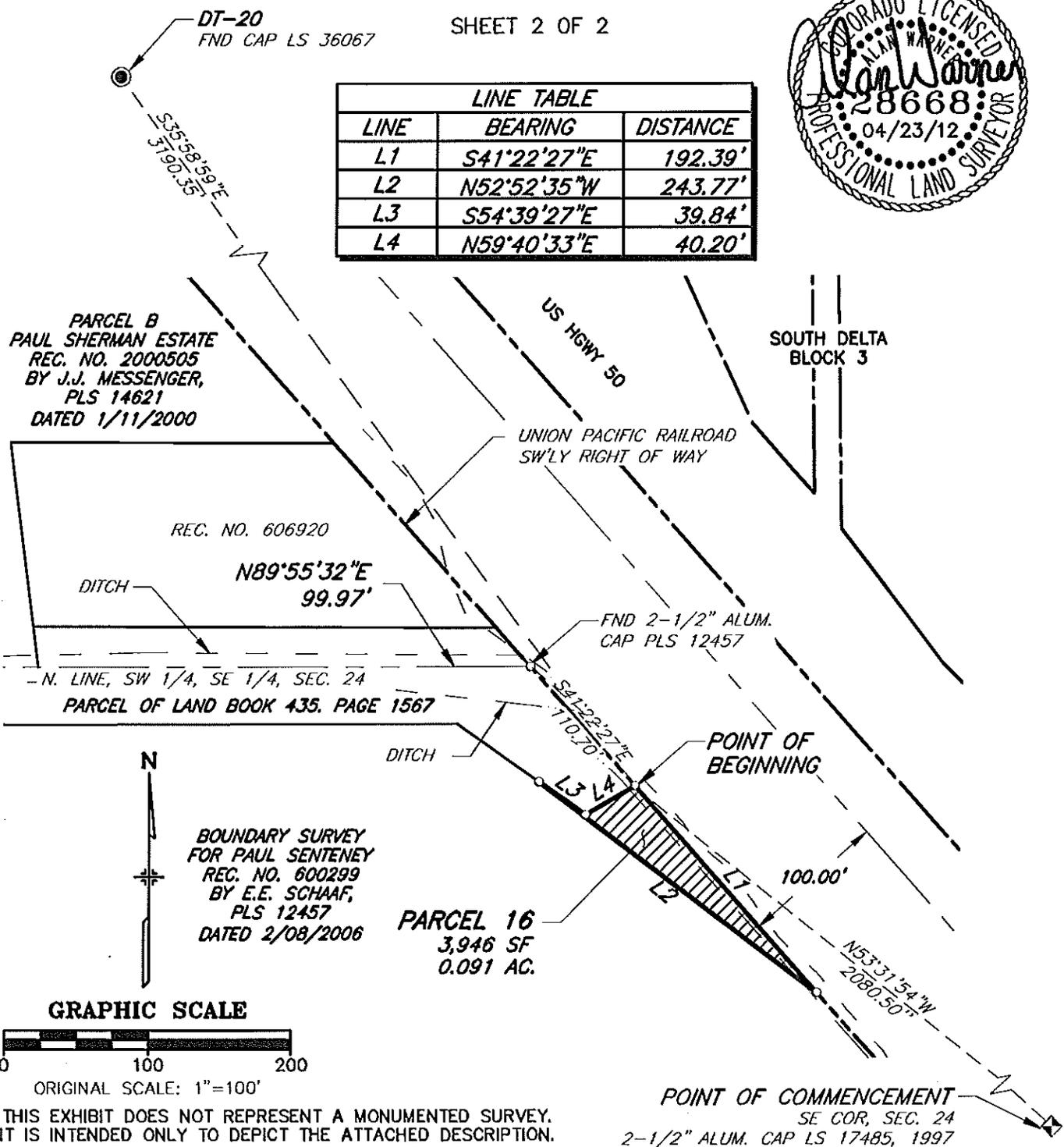
ALAN WARNER, PLS 28668
FOR AND ON BEHALF OF
STANTEC CONSULTING INC.



EXHIBIT A-1
SHEET 2 OF 2

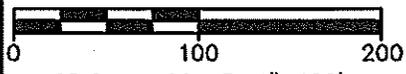


LINE TABLE		
LINE	BEARING	DISTANCE
L1	S41°22'27"E	192.39'
L2	N52°52'35"W	243.77'
L3	S54°39'27"E	39.84'
L4	N59°40'33"E	40.20'



BOUNDARY SURVEY
FOR PAUL SENTENEY
REC. NO. 600299
BY E.E. SCHAAF,
PLS 12457
DATED 2/08/2006

GRAPHIC SCALE



ORIGINAL SCALE: 1"=100'

THIS EXHIBIT DOES NOT REPRESENT A MONUMENTED SURVEY.
IT IS INTENDED ONLY TO DEPICT THE ATTACHED DESCRIPTION.



Stantec Consulting Inc.
2000 S Colorado Blvd
Suite 2-300
Denver, CO 80222
Tel. 303.758.4058
Fax. 303.758.4828
www.stantec.com

PROPERTY DESCRIPTION
RIGHT OF WAY PARCEL 16
ALTERNATE TRUCK ROUTE
SENTENEY FAMILY TRUST
SE 1/4, SEC. 24, T 15 S, R 96 W
OF THE 6TH PM, CITY OF DELTA
DELTA COUNTY, STATE OF COLORADO

PROJECT NO.:		1876 07735
DATE:		03/21/12
CAD OPR.:	SHEET:	
AGW	2 OF 2	

EXHIBIT B

SHEET 1 OF 2

RIGHT OF WAY DESCRIPTION PARCEL 16A

A PARCEL OF LAND LOCATED IN THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 24, TOWNSHIP 15 SOUTH, RANGE 96 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF DELTA, COUNTY OF DELTA, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: THE LINE BETWEEN THE SOUTHEAST CORNER OF SECTION 24, TOWNSHIP 15 SOUTH, RANGE 96 WEST, 6TH P.M., MONUMENTED BY A 2-1/2 INCH ALUMINUM CAP STAMPED LS 17485, 1997, AND DT-20, MONUMENTED BY A 2-1/2 INCH DIAMETER ALUMINUM CAP STAMPED LS 36067, BEARS N 42°53'45" W, A DISTANCE OF 5211.92 FEET, BEARINGS ARE BASED ON THE MESA COUNTY LOCAL COORDINATE SYSTEM KNOWN AS DCLC02 (2009);

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 24; THENCE N 54°45'30" W A DISTANCE OF 1,892.86 FEET TO THE SOUTHWESTERLY RIGHT OF WAY LINE OF THE UNION PACIFIC RAILROAD, SAID POINT BEING THE POINT OF BEGINNING;

THENCE ALONG SAID SOUTHWESTERLY RIGHT OF WAY LINE, S 41°22'27" E, A DISTANCE OF 200.60 FEET;

THENCE N 52°52'35" W, A DISTANCE OF 559.61 FEET;

THENCE N 89°54'54" E, A DISTANCE OF 62.54 FEET;

THENCE S 54°39'27" E, A DISTANCE OF 70.20 FEET;

THENCE S 52°52'35" E, A DISTANCE OF 243.06 FEET TO THE POINT OF BEGINNING;

CONTAINING AN AREA OF 17,326 SQUARE FEET OR 0.398 ACRES, MORE OR LESS.

SURVEYOR'S STATEMENT

I HEREBY STATE THAT THE ATTACHED PROPERTY DESCRIPTION WAS PREPARED BY ME OR UNDER MY RESPONSIBLE CHARGE AND IS ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF.

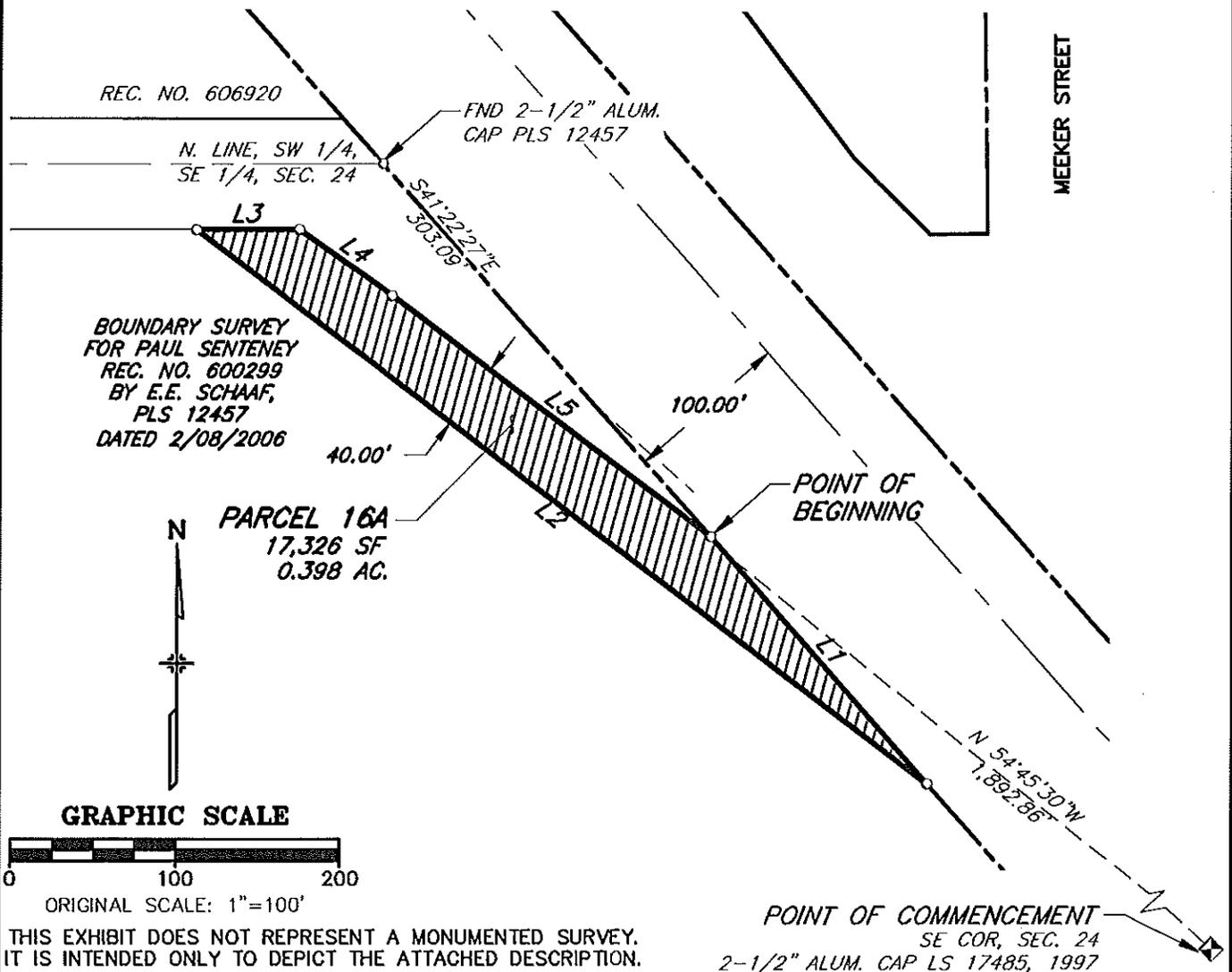
ALAN WARNER, PLS 28668
FOR AND ON BEHALF OF
STANTEC CONSULTING INC.



EXHIBIT B-1
SHEET 2 OF 2



LINE TABLE		
LINE	BEARING	DISTANCE
L1	S41°22'27"E	200.60'
L2	N52°52'35"W	559.61'
L3	N89°54'54"E	62.54'
L4	S54°39'27"E	70.20'
L5	S52°52'35"E	243.06'



Stantec

Stantec Consulting Inc.
2000 S Colorado Blvd
Suite 2-300
Denver, CO 80222
Tel. 303.758.4058
Fax. 303.758.4828
www.stantec.com

PROPERTY DESCRIPTION
RIGHT OF WAY PARCEL 16A
ALTERNATE TRUCK ROUTE
SENTENEY FAMILY TRUST
SE 1/4, SEC. 24, T 15 S, R 96 W
OF THE 6TH PM, CITY OF DELTA
DELTA COUNTY, STATE OF COLORADO

PROJECT NO.:	
1876 07735	
DATE:	
03/21/12	
CAD OPR.:	SHEET:
AGW	2 OF 2

*Erab -
FPT. I believe
Jackie told me this is
recorded already.
Date 7-10*

STATEMENT OF AUTHORITY

The undersigned, Paul Senteney and Helen M. Senteney, state as follows:

1. The name of the entity is the "Senteney Family Trust."
2. The entity is a trust formed under the laws of the state of Colorado.
3. The mailing address for the entity is:

615 - 1800 Road
Delta, Colorado 81416

4. The names and positions of the persons authorized to execute instruments conveying, encumbering, or otherwise affecting title to real property on behalf of the entity are:

Paul Senteney, Trustee
Helen M. Senteney, Trustee

5. The concurrence and joinder of a majority of the Trustees, if more than one Trustee is acting, shall control in all matters pertaining to the administration of the trust. If only two Trustees are acting, the concurrence and joinder of both shall be required.

This Statement of Authority is intended to comply with the provisions of C.R.S. 38-30-108.5 and C.R.S. 38-30-172. Upon recording, this Statement of Authority shall constitute prima facie evidence of the facts recited in this Statement of Authority insofar as the facts affect title to real property and prima facie evidence of the authority of the person executing this Statement of Authority to execute and record this Statement of Authority on behalf of the entity.

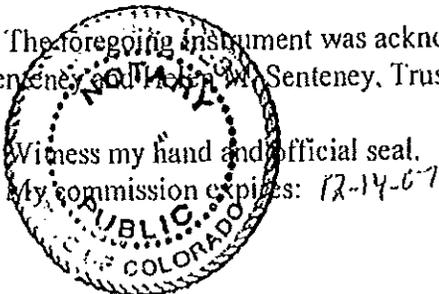
Dated: August ²² 16, 2006.

Paul Senteney
Paul Senteney

Helen M. Senteney
Helen M. Senteney

STATE OF COLORADO)
) ss.
COUNTY OF MESA)

The foregoing instrument was acknowledged before me this ^{22nd} 16th day of August, 2006, by Paul Senteney and Helen M. Senteney, Trustees.



Karen J. West
Notary Public

COUNCIL BILL #14, 2012

**AN ORDINANCE OF THE CITY OF DELTA, COLORADO,
ADDING AND MODIFYING VARIOUS PROVISIONS OF
CHAPTER 17.68 OF THE DELTA MUNICIPAL CODE
PERTAINING TO THE REGULATION OF SIGNS ON
PROPERTY WITHIN THE CITY LIMITS**

WHEREAS, City staff members have recommended the amendment and addition of certain provisions of Chapter 17.68 of the Delta Municipal Code in to clarify and expand certain aspects of the City’s existing sign regulations; and

WHEREAS, the City Council finds staff’s recommendations to be reasonable and in the public interest.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DELTA, COLORADO, AS FOLLOWS:

Section 1. A new subsection M. is hereby added to Section 17.68.020 of the Delta Municipal Code to provide as follows:

“M. Political advertising signs used for campaigning and other purposes related to the promotion of political issues, candidates for public office and other matters to be decided in particular public elections shall be allowed, for a reasonable time period to extend from not more than one hundred eighty (180) days before and not more than ten days after, the pertinent public election in which the office, issue or ballot question addressed by the signs are to be decided. No such signs may be placed within the developed areas occupied by any street, alley, sidewalk, parking area or other public facility, including medians; except that the owners of private property adjoining any public sidewalk or street may maintain such signs for the aforementioned limited period of time within any undeveloped portion of the public right-of-way lying between the edge of the sidewalk or street curbing and their adjoining private land. Any political advertising signage located upon any individual parcel or area of privately owned real property, including any area of adjoining public property allowed by the preceding sentence, shall, in no event, exceed thirty-two (32) square feet in the aggregate and shall not be placed or maintained in any public or private areas where it will pose an obstruction to visibility and thus a safety hazard to motorists and/or pedestrians, as reasonably determined under the City of Delta’s Design Standards and Specifications.”

Section 2. Subsection B. Of Section 17.68.030 of the Delta Municipal Code is hereby

repealed and reenacted in its entirety to provide as follows:

“B. Pennants, banners, commercial flags, balloons and other wind and air-powered devices resembling balloons, except when used for civic events for a maximum period of ten (10) consecutive days or when otherwise used as a temporary sign pursuant to Subsection 17.68.020L. No such pennant, flag, balloon or other wind or air-powered device resembling a balloon shall be used or displayed at a height more than twenty (20) feet above ground level. This Subsection B. shall not apply to balloons having a diameter of no more than twenty-four (24) inches, or to pennants, banners or flags having a length or width of no more than eighteen (18) inches, or to official City banners, or to flags protected under the United States constitution, including those emblematic of the United States, any State, or any branch of the Armed Forces of the United States.”

Section 3. Subsection E. of Section 17.68.030 of the Delta Municipal Code is hereby repealed and deleted.

Section 4. Subsection A. of Section 17.68.040 of the Delta Municipal Code is hereby amended to provide as follows:

“A. Official City-owned and maintained directional signs for public facilities, which signs may be located on any City-owned property, City controlled public easements and property leased for public purposes by the City.”

Section 5. A new Subsection H. is hereby added to Section 17.68.040 to provide as follows:

“H. Group identification or directory signs specifically permitted by the City for the collective benefit of churches, service clubs and other civic organizations and special facilities.”

Section 6. Subsection F. of Section 17.68.060 of the Delta Municipal Code is hereby amended to provide as follows:

“F. 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.”

Section 7. The first sentence of Subsection A. of Section 17.68.080 of the Delta Municipal Code is hereby amended to provide as follows:

“A. Portable sandwich signs which meet the following criteria shall be allowed on sidewalks flanking Main Street between its intersections with First Street and Thirteenth Streets in the City limits provided, however, that each such sign has been issued the required permit from the City:”

Section 8. A new Subsection F. Is hereby added to Section 17.68.080 of the Delta Municipal Code to provide as follows:

“F. Sandwich signs shall be permitted on private property in any part of the City classified for zoning purposes as a “business district” provided that the sign is sufficiently anchored to the ground to prevent the sign from injuring other persons or damaging other property as a result of being propelled by wind or other forces.” All sandwich signs shall be subject to the regular sign permit requirements of this Chapter and shall be included in the computation of maximum signage allowed for each respective property.”

Section 9

. Except as amended or newly provided above, all other provisions of Chapter 17.68 of the Delta Municipal Code are hereby ratified and confirmed as presently written.

ADOPTED ON FIRST READING AND ORDERED PUBLISHED THIS _____ DAY OF _____, 2012.

Mayor

ATTEST:

City Clerk

ADOPTED ON SECOND AND FINAL READING AND ORDERED PUBLISHED THIS _____ DAY OF _____, 2012

Mayor

ATTEST:

City Clerk

COUNCIL BILL #15, 2012

AMENDED

AN ORDINANCE OF THE CITY OF DELTA, COLORADO, DELETING FROM CHAPTER 17.72 OF THE DELTA MUNICIPAL CODE ALL PROVISIONS REGARDING PLANNED UNIT DEVELOPMENTS AND RE-INCORPORATING SUCH PROVISIONS, WITH CERTAIN AMENDMENTS AND ADDITIONS PERTAINING ALSO TO CLUSTER DEVELOPMENTS AND ZERO LOT LINE DEVELOPMENTS, INTO CHAPTER 16.05 OF THE DELTA MUNICIPAL CODE.

WHEREAS, regulations pertaining to planned unit developments (PUDs) in the City of Delta are presently part of the City's general zoning legislation set forth in Chapter 17.72 of the Delta Municipal Code and;

WHEREAS, City staff members have suggested that PUD regulations more reasonably fit within the scheme of the City's subdivision legislation in Title 16 of the Delta Municipal Code; and

WHEREAS, the staff members have further recommended that the PUD regulations, with certain amendments, be combined with new provisions providing regulations for cluster developments and zero lot line developments all in a new Chapter 16.05 of the Delta Municipal Code; and

WHEREAS, the City Council find staff recommendations to be appropriate and in the public interest.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DELTA, COLORADO, AS FOLLOWS:

Section 1. The entirety of Chapter 17.72 of the Delta Municipal Code is hereby repealed and deleted.

Section 2. A new Chapter 16.05 shall be added to the Delta Municipal Code, as part of the City's subdivision regulations, to provide as follows:

“Chapter 16.05

CLUSTER DEVELOPMENT, PLANNED UNIT DEVELOPMENT, AND ZERO LOT LINE DEVELOPMENT

Sections:

- 16.05.010 Purpose.
- 16.05.020 General provisions.
- 16.05.030 Definitions.
- 16.05.040 Submission and review of cluster development.
- 16.05.050 Submission and review of planned unit developments.
- 16.05.060 Submission and review zero lot line development.
- 16.05.070 Changes to adopted plan.

16.05.010 Purpose. The purpose of the Planned Unit Development, sometimes in this Chapter referred to as PUD, is to provide the opportunities to create more desirable environments through the application of flexible and diversified land development standards under a comprehensive plan. It is further intended to achieve economics in land development, maintenance, street systems, and utility networks while providing building groupings for privacy, usable attractive open spaces, safe circulation, and to protect the general well-being of the inhabitants.

The purpose of Zero Lot Line Development and Cluster Development is to allow multiple ownership of single building envelopes such as condominiums, town homes, office and retail space. Cluster development is encouraged to preserve environmentally sensitive areas, open space and agricultural lands.

16.05.020 General provisions.

A. Planned Unit Developments, Zero Lot Line Developments and Cluster Developments may include the uses allowed by right in the zoning district in which the development is located.

B. The zoning and subdivision regulations contain the minimum standards for any development. Where modifications of those standards is in keeping with the intent of this Chapter and can be documented to show beneficial effects, such modification may be permitted.

16.05.030 Definitions. Those terms specific to PUD’s, Zero Lot Line Developments and Cluster Developments are defined for use in this Chapter as set forth in this Section. Additional definitions may be found in Section 16.04.030 of The Subdivision Regulations.

A. “Cluster Development” means lots that are smaller and arranged differently than otherwise allowed to allow conservation of farm land, wildlife areas or common open space.

B. “Common Area” means area used and maintained by all owners located in the

development.

C. “Common open space” means a parcel of land, an area of water, or a combination of land and water within the site designated and intended primarily for the use or enjoyment of residents, occupants and owners of the Planned Unit Development. In a single-family PUD, private yards may be considered common open space.

D. “Limited Common Element” means an area restricted to use by the units (area) designated.

E. “Plan” means the provisions for development, which may include and need not be limited to easements, covenants and restrictions relating to use, location and bulk of buildings and other structures, intensity of use or density of development, utilities, private and public streets, ways, roads, pedestrian areas, and parking facilities, common open space, and other public facilities.

F. “Planned Unit Development” means an area of land, controlled by one or more landowners, to be developed under unified control or unified plan of development for a number of dwelling units, commercial, educational, recreational or industrial uses, or any combination of the foregoing, the plan for which does not correspond in lot size, bulk or type of use, density, lot coverage, open space, or other restrictions to the existing land use regulations.

G. “Provisions of the plan” means the written and graphic materials and other contents of the “plan” defined by subsection E of this Section.

H. “Zero Lot Line Development” refers to buildings that may be attached to each other with a common wall or directly adjacent to each other on one lot boundary line.

16.05.040 Submission and review of cluster development plans.

A. Cluster developments shall follow sections 16.04.010 through 16.04.080, exempting 16.04.070.E 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 maybe 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 of, 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.

16.05.050 Submission and review of a Planned Unit Development.

A. A PUD shall be located along a major street of at least collector status as shown on Major Street Plan as adopted by the Planning Commission, with access to the street approved by the City Planning Commission.

B. PUDs shall follow Sections 16.04.010 through 16.04.080 (but excepting provisions of subsection 16.04.070E.) with the following additional requirements:

1. Final plan showing the location and size of all existing and proposed buildings, structures and improvements and their uses;
2. Certification showing the landowner dedicates or reserves areas of common open space;
3. Final plan showing the density and type of dwelling to be built within the PUD to include the maximum height of all buildings;
4. Final plan showing the internal traffic circulation system, off-street Parking areas, service area, loading areas and major points of access to a public right-of-way;
5. Final plan showing the location, height and size of signs, lighting and advertising devices;
6. Final landscaping plan showing the spacing, sizes and specific type of landscaping material;
7. A legal description of the PUD;
8. A final report explaining the character and objectives to be achieved by the PUD;
9. A final report describing the development schedule indicating when construction will start and when the PUD will be completed;
10. Final copies of any special agreements, conveyances, restrictions or covenants which will govern the use, maintenance and continues protection of the PUD and the common open space areas.

C. Minimum design standards. The provisions of Section 16.04.070 (with the exception of the provisions of Subsection E. thereof), are hereby incorporated in this subsection C. and made a part thereof by this reference.

1. In addition to the requirements set forth Subsection A of said Section 16.04.070, the following will be required for a PUD:

a. The uses in a planned unit must be uses permitted of right or permitted by special review in the zoning district in which the planned unit is located. In addition, uses by right in business districts shall be uses by special review in residential planned units, and may be permitted if, in the opinion of the Planning Commission, such uses, if any, to be allowed in a residential planned unit shall be established by the Planning Commission on the

basis of these criteria.

b. The planned unit's relationship to its surroundings shall be considered in order to avoid adverse effects to the development caused by traffic circulation, building height or bulk, lack of screening or intrusion on privacy;

c. Minimum lot area requirements are established in the Subdivision Regulations. These requirements may be modified by the Planning Commission if the developer indicates that such changes are in keeping with the intent of this Title 16. The Planning Commission must review all PUD's with respect to living space, common open space, parking spaces and traffic circulation.

d. Common Open Space.

i. Common open space shall comprise at least twenty-five percent of the total gross area of a residential PUD. Such open space will be developed and designed for the use of the occupants of the development and shall contain therein adequate space for active recreational activities, and adequately landscaped walkways and parks. Common open space does not include space devoted to streets, parking and loading areas.

ii. The Planning Commission may exempt nonresidential PUD's from the common open space requirement if it finds the development will provide for the occupants' or customers' needs for open space in whole or in part by either or a combination of :

(1). Public park, mall or recreation features, or a combination thereof, for which the site of the planned unit has or will be levied a special assessment; or

(2). Developed facilities in the planned unit, such as but not limited to common recreational areas or facilities, plazas, balconies or rooftops improved for recreational uses.

iii. A reduction in common open space or lot area per dwelling unit shall not be permitted if such reduction would be detrimental to the character of the proposed planned unit or the character of the surrounding area.

iv. The Planning Commission may determine that all or a part of stream areas, bodies of water, and slopes in excess of fifteen percent may be included as usable open space. In making this determination, the Planning Commission shall be guided by the following factors:

(1). The extent of those areas in relation to the area of the planned unit; and

(2). The degree to which these areas contribute to the quality, livability and amenity of the planned unit.

e. Off-street parking will be determined by the subdivision/zoning regulations. These regulations may be altered by the Planning Commission if the character of the PUD is such that changes to the requirements are in keeping with the intent of this Title.

16.05.060 Submission and review of zero lot line development plan.

A. Zero lot line developments shall follow sections 16.04.010 through 16.04.080, with the exception of the provisions of Subsection 16.04.070.E) 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. 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.

16.05.070 Changes to any adopted plans in this Chapter.

A. Minor Plan Changes. The terms, conditions of an adopted plan may be changed from time to time provided as follows: The City's development department director, or other agent as authorized by the City Manager, may approve minor modifications in the location of streets and underground utilities and in the location, sizing and height of buildings and structures if required by engineering or other circumstances not foreseen at the time the plan was formally approved, so long as the modification does not result in:

1. An increase of more than five percent (5%) in the gross residential density;
2. An increase of more than five percent (5%) in the floor area proposed for nonresidential use of a commercial or industrial nature;
3. An increase of more than five percent (5%) in the total ground area covered by buildings except in single-family residential areas; and
4. A reduction of more than three percent (3%) in the area set aside for common open space.

B. Plan Changes Involving Land Uses. Any uses that are not approved in a final plan but are allowable in the pertinent zoning district as a permitted use may be added to the plan upon approval of any such alteration by the Planning Commission and City Council at regularly scheduled meetings.

C. Major Plan Changes. All other modifications of an adopted and recorded plan shall be regarded as "major modifications", and shall be subject to the following application and review procedures:

1. Any application for major modifications of a previously approved and recorded plan shall be submitted on forms provided by the City, and a fee equal to that which is required for the initial filing of a full plan shall be paid to the City at the time of any such

application.

2. Review and approval of any application filed pursuant to this subsection C shall be subject to compliance with all the criteria and procedural steps required for review and approval for filing a sketch plan. Such review and approval shall also be subject to compliance with all other applicable City Code sections that may be generally contemplated. Complete engineering and design drawings of the proposed major modification of a plan shall be submitted with the application therefore, detailing the proposed changes and demonstrating compliance with all legal requirements.

3. A public review process generally following the procedures set forth in the Delta Municipal Code shall also be required as a pre-condition of approval of any major modification of a plan. In that regard, the concept of notice to owners of record required under Delta Municipal Code Section 17.04.290(D) (3) shall be expanded to include all record owners of properties within the boundaries of the originally approved plan and all record owners of properties immediately adjoining said boundaries and within a distance of five hundred feet (500') plus the width of any intervening public right-of-way.

4. The City Planning Commission may recommend for ultimate approval by the City Council the proposed major changes to a plan if it determines that all of the following criteria are substantially met:

a. The requested change will not adversely affect the public health, safety and welfare.

b. The requested change is the minimum that will afford relief and allow for reasonable use of the property sought to be affected by the application.

c. The requested change will not result in development that is incompatible with other property uses and/or building improvement within the pertinent boundaries or in the adjoining areas, and will not substantially impair the value or development of such other property within or outside of the area covered by the originally approved plan.

5. The City Planning Commission may impose such additional conditions of approval as may be reasonably necessary to ensure that the above criteria are met.”

Section 3. In the event that any provision of this new Chapter 16.05 of the Delta Municipal Code is, for any reason, deemed to be unlawful or unenforceable, the remaining provisions shall, to the fullest extent reasonably possible, be construed to maintain their validity and enforceability.

ADOPTED ON FIRST READING AND ORDERED PUBLISHED THIS _____ DAY
OF _____, 2012.

Mayor

ATTEST:

City Clerk

ADOPTED ON SECOND AND FINAL READING AND ORDERED PUBLISHED
THIS _____ DAY OF _____, 2012

Mayor

ATTEST:

City Clerk

COUNCIL BILL #16, 2012

**AN ORDINANCE OF THE CITY OF DELTA, COLORADO
REVISING CHAPTER 8.08 OF THE DELTA MUNICIPAL
CODE WITH REGARD TO REGULATION OF BURNING
ACTIVITIES WITHIN THE CITY LIMITS**

WHEREAS, City staff members have recommended the revision of Chapter 8.08 of the Delta Municipal Code to expand and better define certain aspects of the City’s restrictions and prohibitions on burning activities; and

WHEREAS, the City Council finds staff’s recommendations to be necessary for the control of air pollution, the preservation of public and private property and the general protection of public health and safety.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DELTA, COLORADO, AS FOLLOWS:

Section 1. Chapter 8.08 of the Delta Municipal Code is hereby fully repealed and reenacted to provide as follows:

“Chapter 8.08

BURNING RESTRICTIONS

Sections:

- 8.08.010 Definitions.
- 8.08.020 Open Burning of Materials Generally Prohibited.
- 8.08.030 Burning Activities Allowed Subject to Restrictions

8.08.010 Definitions. The definitions of words and phrases used in this Chapter which pertain to the concept of “open burning” shall reasonably conform with any which may be provided in C.R.S. 25-7-103 and in Colorado Air Quality Control Commission Regulation No. 9.

8.08.020 Open Burning of Materials Generally Prohibited. It shall be unlawful to conduct any form of outdoor or open burning activity anywhere in the City of Delta except as specifically allowed by Section 8.08.030. This general prohibition shall apply whether or not burning is conducted within a receptacle or facility designed for the containment of outdoor fires. It is specifically intended to prohibit the burning of all forms of trash, garbage, refuse and other waste materials including without limitation, all forms of vegetation such as leaves, tree limbs, grass, shrub and garden trimmings, and all forms of manufactured products and materials except food materials being used for, and in the process of, cooking meals for human consumption in

the manner specifically allowed under Section 8.08.030A.

8.08.030. Burning Activities Allowed Subject to Restrictions. Notwithstanding any express or implied provision of Section 8.08.020 to the contrary, the following outdoor or open burning activities shall be deemed lawful subject to all specified restrictions and conditions:

A. The outdoor cooking of food in grills, barbeque pits and other containment devices specifically designed for cooking activity, and the use of matches, torches, welding and ignition devices, tobacco products, flares, fireworks, explosives and other products and devices commonly used for domestic, commercial, training and industrial purposes, provided that the pertinent activity otherwise complies with all applicable State laws and regulations.”

B. Open burning on real property of surface brush, weeds and other cover vegetation for purposes of routine ditch and field maintenance and general agricultural purposes on the following conditions:

1. The areas to be burned either consist of an easement area owned and controlled by an incorporated or unincorporated ditch association, or are otherwise located entirely within one or more contiguous lots or parcels of land titled in the name(s) of the same owner(s) and containing one half acre or more in the aggregate.

2. The desired removal of brush, weeds and other cover vegetation cannot be as practically or economically accomplished by means other than burning, and the surface areas to be burned are located at least fifty (50) feet from all buildings, structures and other man-made improvements.

3. Any burning activity is continuously attended by an owner of the easement or property on which the surface burning is to occur, or some properly delegated officer or agent of such owner, who has the ability to control and extinguish the fire through immediately available water sources and other fire suppression tools that are adequate to prevent spread of the fire to man-made improvements and/or to other areas of adjoining land.

4. The owner of the pertinent easement or property observes all applicable provisions, conditions and/or limitations of Department of Public Health and Environment Colorado Air Quality Control Commission Regulation 9 entitled “Open Burning Prescribed Fire and Permitting”, 5 CCR 1001-11, as amended, and has also first complied with applicable provisions of Delta County Burn Regulations (Ordinance No. 2007-02, as amended) by providing notice of an intent to conduct open burning through the “Burn Hotline” at 399-2955 or any successor phone number maintained for burning notification purposes by Delta County.”

Section 2. No part of this ordinance is intended to conflict with any preemptive law or regulation adopted by the State of Colorado. In the event any such conflict is judicially

determined to exist, the State legislation shall prevail in accord with general law.

ADOPTED ON FIRST READING AND ORDERED PUBLISHED THIS _____ DAY
OF _____, 2012.

Mayor

ATTEST:

City Clerk

ADOPTED ON SECOND AND FINAL READING AND ORDERED PUBLISHED
THIS _____ DAY OF _____, 2012

Mayor

ATTEST:

City Clerk