



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**

**September 4, 2012
7:00 p.m.**

- A. Pledge of Allegiance**
- B. Changes to the Agenda**
- C. Minutes**
- D. Citizen Comments**
- E. City Manager Announcement (tabled August 21, 2012)**
- F. Auditors Report (DeZeeuw)**
- G. Hotel/Restaurant Liquor License Renewal: Gabriela's Inc. (Nelson)**
- H. Eaglenet Broadband Presentation and Pole Agreement (Black)**
- I. City Attorney Comments**
- J. City Manager Comments**
- K. Councilmember Comments**

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 Cooper and seconded by Councilmember Raley to approve the minutes of August 7, 2012 as submitted by the Clerk. All in favor, motion carried.

Citizen Comments

There were none.

City Manager Announcement

Mayor Sisson stated that they are not prepared to make an announcement tonight. They are conducting background checks and references.

It was moved by Councilmember Cooper and seconded by Councilmember Jurca to table the City Manager Announcement until further notice. All in favor, motion carried.

Street Closure Permit: Delta County School District Backpack Program

The Clerk explained that the Delta County School District Backpack Program has submitted a street closure permit application for a 5K Run they plan to hold on October 27, 2012. The application states they would like 9th Street Hill closed for the event. Representatives from the Backpack Program did meet with staff to discuss the event. A map showing the routes was submitted with the application. The Clerk also explained that the insurance requirement has been met and the fees have been paid. Staff recommends approving the application to close 9th Street Hill on October 27, 2012 for the event.

It was moved by Councilmember Penick and seconded by Councilmember Raley to approve the street closure permit for the Delta County School District Backpack Program event scheduled on October 27, 2012. All in favor, motion carried.

Purchase of Fitness Equipment

Culture and Recreation Director Wilma Erven stated that staff is requesting approval to purchase four new Total Body Arc Trainers with embedded wireless audio receivers. She

Regular Meeting, Delta City Council, August 21, 2012 (cont.)

Purchase of Fitness Equipment (cont.)

explained the advantage of having the embedded wireless audio receivers. These machines will be replacing four machines currently at the recreation center. Three of them will be sold and one is already parted out.

Ms. Erven explained that there were four bids received. Staff is not recommending the low bid due to the fact that the professional fitness machine repairman that does their repair work informed them that the SCIFIT machines do not hold up under heavy use. Also, the SCIFIT machines do not have the embedded wireless audio receivers. During the 2012 budget process \$20,000 was budgeted for these machines. The additional \$1492.90 will come from the selling of the used units and also from the fitness budget that will not be used. Staff recommends purchasing four Total Body Arc Trainers from Commercial Fitness Solutions, Inc.

Councilmember Penick questioned if staff believes they can sell the machines.

Ms. Erven stated that they do. She explained the last time they sold equipment and the success they had with that.

It was moved by Councilmember Jurca and seconded by Councilmember Penick to purchase four Total Body Arc Trainers with embedded wireless audio receivers from Commercial Fitness Solutions, Inc. in the amount of \$21,492.90. All in favor, motion carried.

Delta County Cannery Demolition Project

Public Works Director Jim Hatheway reported that the demolition of the Delta County Cannery and adjacent building is another step in the clearing phase of City properties for the construction of Confluence Drive. Staff is trying to get the building removed before the contractor mobilizes onsite. The numbers that staff received from SEMA, and similarly from Hamon, for estimated demolition and disposal were \$200,000 to \$250,000. Staff was looking for local options that might be able to complete that project in a timely fashion as well as trying to reduce the cost.

Mr. Hatheway explained staff advertised the project and they received eleven bids. He presented a summary of the bids. When staff advertised the bid, they advertised for the primary building and the secondary building in the event the condemnation is approved. Staff is recommending approving the contract with M&A Concrete Construction. The cost for the primary building will be \$48,450 and the secondary building is \$14,500.

Mayor Sisson questioned why there was such a big difference in the bids and if M&A is capable of completing the project.

Mr. Hatheway is not sure why the bids varied so much but stated that M&A is one of the stronger companies to handle this type of project.

Councilmember Penick questioned if this includes the hauling the material off site.

Mr. Hatheway stated that it does. He explained that the way the project was bid was for them to look at three different options for the disposal of the material. He also explained the different bid options. M&A did state they are comfortable with all three options. A request has been

Regular Meeting, Delta City Council, August 21, 2012 (cont.)

Delta County Cannery Demolition Project (cont.)

made to the Delta County Commissioners to waive or reduce landfill fees. Staff is also looking at possibly recycling some of the material to use on the truck route.

Councilmember Penick also questioned if there would be a change in the bid if that were to occur.

Mr. Hatheway stated it would. Staff is waiting for a number from the contractor to see what the difference would be.

Councilmember Penick questioned if all permits have been acquired.

Mr. Hatheway stated staff has not acquired all permits at this time.

Councilmember Penick questioned if they should be approving this process tonight or should they wait to hear back from them as to price of processing material. He wanted to know what the disadvantage to waiting would be.

Mr. Hatheway stated that he was hoping for Council to approve it tonight subject to the issuance of the permits to keep the process moving.

Councilmember Penick questioned if staff expects to receive permission to proceed before Council's first meeting in September.

Mr. Hatheway stated there is a 50/50 chance right now.

Councilmember Cooper stated she would prefer to get it done now and not wait.

City Attorney Michael Schottelkotte stated that they are expecting the Order of Possession anytime.

It was moved by Councilmember Cooper and seconded by Councilmember Raley to award the contract of the Cannery demolition to M&A Concrete not to exceed \$62,950 contingent upon ACOE and court approval for demolition. Motion carried with Councilmember Penick voting no and all others voting aye.

Purchase Contract with Delta 03, LLC

Director Hatheway stated the next two contracts are the last two private property acquisitions for the Confluence Drive project. The Delta 03 property is the property where the Ace Hardware and Dollar Tree are located. Staff has negotiated with property owner and the appraised price of \$14,500 was agreed upon.

It was moved by Councilmember Jurca and seconded by Councilmember Cooper to approve the property acquisition contract with Delta 03, LLC for \$14,500 and authorize the City Manager to sign the contract. All in favor, motion carried.

Regular Meeting, Delta City Council, August 21, 2012 (cont.)

Purchase Contract with Gillette Management, LLC

Director Hatheway stated that this property has Kentucky Fried Chicken located on it. Staff offered \$8,500 and the property owner has agreed to the offered price. Again, this is for the Confluence Drive project.

It was moved by Councilmember Cooper and seconded by Councilmember Penick to approve the property acquisition contract with Gillette Management, LLC for \$8,500 and authorize the City Manager to sign the contract. All in favor, motion carried.

City Attorney Comments

Attorney Schottelkotte stated he will be away for the next meeting. He reported on a few items regarding the truck route.

City Manager Comments

City Manager Glen Black reminded Council of CML's district outreach meeting being held in Ouray on September 10, 2012. He stated that a work session discussing the budget will be on September 4, 2012. He also stated that staff hired a human resource person last week.

Councilmember Comments

Councilmember Cooper stated she is glad to hear about the great news on the truck route.

Councilmember Penick thanked staff for their help with the City Manager candidates.

Mayor Sisson also thanked staff for their help.

Executive Session

It was moved by Councilmember Penick and seconded by Councilmember Cooper to convene an Executive Session 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 contract negotiations. All in favor, motion carried.

At 7:29 p.m., Mayor Sisson recessed the Regular Meeting and convened the Executive Session.

At 7:59 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 City Attorney Michael Schottelkotte. 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

MEMO



City Manger

www.cityofdelta.net

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Date: September 4, 2012
To: Mayor and City Council
From: Glen L. Black, City Manager
Re: Appointment of City Manager

GLB

RECOMMENDATION

City Council would announce and appoint the new City Manager.

BACKGROUND

Council interviewed six candidates for the City Manager position and has found that Justin Clifton has met their requirements to fill the position of City Manager for the City of Delta.

SUGGESTED MOTION

I would move that Council appoint Justin T. Clifton as City Manager for the City of Delta and authorize the Mayor to sign the employment agreement. Mr. Clifton will assume the position and duties on approximately October 1st, 2012.

Thank you for your attention.

MEMO

To: City Council, City Manager
From: Tod DeZeeuw, Finance Director
Date: August 30, 2012
Subject: 2012 Financial Statement Audit

Background

The following is the annual financial statement audit required by the City of Delta Charter. Tim Mayberry, CPA, of the firm Holscher, Mayberry & Company, LLC will be presenting the audit.

Cost

Budgeted and approved during the 2012 Budget process (\$22,250).

Action to be Taken if Approved

None required



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MEMO

To: City Council, City Manager
From: Jolene E. Nelson, City Clerk
Date: August 30, 2012
Subject: Hotel/Restaurant Liquor License Renewal for Gabriel's Family Mexican Restaurant

Recommendation

Staff recommends approval of the Hotel/Restaurant Liquor License Renewal for Gabriela's Family Mexican Restaurant located at 420 Main Street. The Police Department's report and recommendation is attached.

Background

The current liquor license expires October 12, 2012.

Cost

There is no cost to the City to renew this license. The applicant has paid the \$500 renewal fee to the State, and the City renewal fee of \$150 as well as the City's \$400 liquor occupation tax for a hotel/restaurant liquor license.

Action to be Taken if Approved

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

Suggested Motion

I move to approve the hotel/restaurant liquor license renewal for Gabriela's Family Mexican Restaurant.

**LIQUOR OR 3.2 BEER LICENSE
 RENEWAL APPLICATION**



GABRIELA'S INC
 GABRIELA'S FAMILY MEXICAN RESTAURANT
 708 S JUNCTION AVE
 MONTROSE CO 81401-4416

License Number 42-85727-0000	License Type 1970
Liability Information 18 011 722110 C 101310	
Business Location 420 MAIN ST DELTA CO	
Current License Expires OCT 12, 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 	Date 7/17/12	Business Phone 970)874-0309
Title President	Sales Tax Number	

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.

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Business Name	LICENSE NUMBER (Use for all reference)	PERIOD
GABRIELA'S FAMILY	42-85727-0000	10-13
TYPE OF LICENSE ISSUED HOTEL AND RESTAURANT LIQUOR LICENSE - MALT, VINOUS, AND SPIRITUOUS	CASH FUND	STATE FEE
	2320-100(999) \$ 50.00	1970-750(999) \$ 25.00
		CITY 85% OAP 2180-100(999) \$ 425.00

SUB-TOTAL \$ 500.00

ADD \$100.00 TO RENEW RETAIL WAREHOUSE STORAGE PERMIT 2210-100(999) \$ _____

TOTAL AMOUNT DUE \$ 500.00

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 Gabriela's, Inc.		State License Number 04285727
1. Operating Manager Gabriela Torres De Medrano	Home Address 708 S Junction Ave, Montrose, CO 81401	
2. Do you have legal possession of the premises for which this application for license is made? Are the premises owned or rented: <u>Rented</u> If rented, expiration date of lease: <u>Year to Date</u>	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
3. Has there been any change in financial interest (new notes, loans, owners, etc.) since the last annual application? If yes, explain in detail and attach a listing of all liquor businesses in which these new lenders or owners, (other than licensed financial institutions) are materially interested.	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
4. Since the date of filing of the last annual application, has the applicant, or any of its agents, owners, managers, principals, or lenders (other than licensed financial institutions), been convicted of a crime? If yes, attach a detailed explanation.	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
5. Since the date of filing of the last annual application, has the applicant, or any of its agents, owners, managers, principals, or lenders (other than licensed financial institutions), been denied an alcoholic beverage license, had an alcoholic beverage license suspended or revoked, or had interest in any entity that had an alcoholic beverage license denied, suspended or revoked? If yes, attach a detailed explanation.	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 type="checkbox"/>	No <input checked="" 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"/>
8. Sole proprietorships, Husband-Wife Partnerships or Partners in General Partnerships: EVIDENCE OF LAWFUL PRESENCE Each person identified above must complete and sign the following affidavit. Please make additional copies if necessary. Each person must also provide a copy of their driver's license or state issued identification card. In lieu of form DR 4679, the undersigned swears or affirms under penalty of perjury under the laws of the State of Colorado that (check one): <input checked="" type="checkbox"/> I am a United States Citizen <input type="checkbox"/> I am not a United States Citizen but I am a Permanent Resident of the United States <input type="checkbox"/> I am not a United States Citizen but I am lawfully present in the United States pursuant to Federal Law <input type="checkbox"/> I am a foreign national not physically present in the United States I understand that this sworn statement is required by law because I have applied for a public benefit. I understand that state law requires me to provide proof that I am lawfully present in the United States prior to receipt of this public benefit. I further acknowledge that making a false, or fraudulent statement or misrepresentation in this sworn affidavit is punishable under the criminal laws of Colorado Revised Statute 18-8-503 and it shall constitute a separate criminal offense each time a public benefit is fraudulently received.		
Signature 	Printed name Gabriela Torres De Medrano	Date 7/17/12



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LIQUOR LICENSE RENEWAL RECOMMENDATION

To: City Council

Re: Application of Gabriela's Inc.
DBA: Gabriela's Family Mexican Restaurant

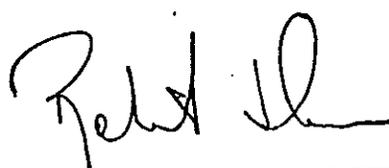
The report sheets show the following liquor violations for the past twelve months for the above named applicant:

No Violations in the past twelve months.

Remarks:

Police Department recommendation:

Recommend liquor license renewal.



Robert Thomas, Chief of Police

MEMO



City Manger

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Date: September 4, 2012
To: Mayor and City Council
From: Glen L. Black, City Manager
Re: Eaglenet Presentation

GLB

RECOMMENDATION

City Council would consider the Eaglenet proposal to bring broadband service into the City of Delta.

BACKGROUND

Pat Swonger with Eaglenet has made several presentations to the Delta Area Local Technology Planning Team and is working to bring fiber optic cable into the City of Delta. Mr. Swonger has asked to make a presentation explaining Eaglenet to Council and also discuss a pole hanging agreement and the establishment of a Carrier Neutral Location with the City.

STAFF REVIEW AND DISCUSSION

Review of the Eaglenet proposal and comparison of possible rates by staff has shown that we would be interested in purchasing broadband from Eaglenet.

ACTION TO BE TAKEN IF APPROVED

Staff will finalize details of the proposal to allow Eaglenet to hang fiber optic cable on City poles and establish a Carrier Neutral Location (CNL) on City property at the edge of the cemetery.

SUGGESTED MOTION

I would move that Council authorize the City Manager to enter into a pole hanging agreement with Eaglenet.

Thank you for your attention.