



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**

**July 2, 2013
7:00 p.m.**

- A. Pledge of Allegiance**
- B. Changes to the Agenda**
- C. Minutes**
- D. Citizen Comments**
- E. Approval of 2012 Financial Audit**
- F. Delta Housing Authority Board Appointment**
- G. Beer and Wine License Renewal; House of Chin**
- H. Consideration of Burn Restrictions**
- I. City Attorney Comments**
- J. City Manager Comments**
- K. Councilmember Comments**

Item A:

Pledge of Allegiance



Item B:

Changes to the Agenda

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 City Manager Justin Clifton 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

Councilmember Penick stated there are corrections for the June 4, 2013 under the public hearings. The last sentence states "... closed a public hearing and opened the public hearing", it should read ".... closed the public hearing and reconvened the regular meeting".

It was moved by Councilmember Penick and seconded by Councilmember Cooper to approve the minutes of the May 21, 2013 regular meeting and the June 4, 2013 regular meeting with the corrections as noted. All in favor, motion carried.

Citizen Comments

There were none.

Approval of 2012 Financial Audit

City Manager Justin Clifton explained that the work session tonight the draft audit was presented. At this time, approval of the audit is being requested.

Councilmember Jurca stated he believes it's premature to approval the draft.

It was moved by Councilmember Cooper and seconded by Councilmember Penick to table the approval of the 2012 Financial Audit until the next meeting. All in favor, motion carried.

Public Hearing: Hotel/Restaurant Liquor License Application; Delta Fireside Inn, Inc./DBA Gerhard's

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

The Clerk explained that an application for a Hotel and Restaurant Liquor License has been submitted by Delta Fireside Inn, Inc. /DBA Gerhard's. This license is for their location at 820 Hwy 92 in Delta. The application is complete and all fees have been paid. The owner, Ernst Schopp has submitted is fingerprints for the background check and staff is waiting for the response from the Colorado Bureau of Investigations. Fingerprints have also been submitted by Jeri Schopp who will be the registered manager of the establishment. A sign notifying the public

Regular Meeting, Delta City Council, June 17, 2013 (cont.)

Public Hearing: Hotel/Restaurant Liquor License Application; Delta Fireside Inn, Inc./DBA Gerhard's (cont.)

of this hearing was posted at the site as required by law as well as notice in the Delta County Independent. Staff recommends approval of the license contingent upon receiving favorable fingerprints on Mr. Schopp.

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

Councilmember Jurca questioned if the Clerk had received any comments regarding the license.

The Clerk stated she had not received any comments.

It was moved by Councilmember Raley and seconded by Councilmember Penick to approve the Hotel/Restaurant Liquor License Application for Delta Fireside Inn, Inc./DBA Gerhard's contingent upon receiving favorable fingerprints. All in favor, motion carried.

Fireworks Permit; Delta Volunteer Fire Department

The Clerk stated that the Delta Volunteer Fire Department has submitted a fireworks permit application for their annual fireworks show that will be held at Confluence Park on July 4, 2013. The application is complete and all requirements have been met.

It was moved by Councilmember Jurca and seconded by Councilmember Penick to approve the fireworks permit for the Delta Volunteer Fire Department. All in favor, motion carried.

Retail Liquor Store Renewal; Moonshine Liquors

The Clerk reported that Moonshine Liquors has submitted their annual Retail Liquor License renewal. The application is complete and all fees have been paid. The police department is recommending renewal.

It was moved by Councilmember Cooper and seconded by Councilmember Raley to approve the Retail Liquor Store License renewal for Moonshine Liquors. All in favor, motion carried.

Hotel/Restaurant Liquor Renewal and Report of Changes; El Tapatio

The Clerk stated that Delta El Tapatio has submitted their annual Hotel and Restaurant Liquor License renewal as well as a Report of Changes. The Report of Changes states that they have changed their manager. The new manager, Jorge Velazquez Becerra, has submitted his fingerprints and we are waiting for the results from the Colorado Bureau of Investigations. All fees have been paid for both submittals. The police department is recommending approval of the renewal application. Staff would also recommend approval of the Report of Changes contingent upon receiving favorable in fingerprints of Jorge Velazquez Becerra.

Regular Meeting, Delta City Council, June 17, 2013 (cont.)

Hotel/Restaurant Liquor Renewal and Report of Changes; El Tapatio (cont.)

It was moved by Councilmember Penick and seconded by Councilmember Jurca to approve the renewal and report of changes for Delta El Tapatio contingent upon receiving favorable fingerprints. All in favor, motion carried.

Ordinance #2, 2013; Second and Final Reading
Revision of Chapter 6.04 of the Delta Municipal Code

Ordinance #2, 2013

AN ORDINANCE OF THE CITY OF DELTA, COLORADO,
AMENDING TITLE 6 CHAPTER 6.04 OF THE DELTA
MUNICIPAL CODE

was introduced as Council Bill #2, 2013 and read by the Clerk.

City Manager Justin Clifton stated that there are a few changes in the numbering to be consistent throughout the code.

It was moved by Councilmember Cooper and seconded by Councilmember Jurca to adopt Council Bill #2, 2013 on second and final reading as amended Roll call vote; Councilmembers Cooper, aye; Penick, aye; Jurca, aye; Raley, aye and Sisson, aye. Council Bill #2, 2013 was adopted on second and final reading as Ordinance #2, 2013.

Lease of Howard Reservoir Water

Manager Clifton reported that this is an opportunity to help a property owner with their water situation as well as generate some revenue. This lease will allow a 20-acre feed of water from the Howard Reservoir to Elmer Ferganchick. Staff has suggested current rates and terms within the memo that is before Council tonight.

Councilmember Penick questioned how it will be monitored.

Utilities Director Steve Glammeyer stated that the water commissioners take care of that for the City.

Councilmember Cooper questioned if these are the shares that were purchased from him.

Director Glammeyer stated they are not. The Ferganchick family owned water shares in the Battlement Reservoir and Ditch Company.

It was moved by Councilmember Penick and seconded by Councilmember Jurca to approve the lease of Howard Reservoir Water to Elmer Ferganchick. All in favor, motion carried.

City Attorney Comments

There were none.

Regular Meeting, Delta City Council, June 17, 2013 (cont.)

City Manager Comments

Manager Clifton stated that David Smith was not here because of a conflict with another meeting. He will be at the next meeting. He also stated that while he is out of the office attending the CML Conference Steve Glammeyer will be Acting City Manager.

Councilmember Comments

Councilmember Cooper commented on the upcoming CML conference.

The meeting was adjourned at 7:15 p.m.

Jolene E. Nelson, City Clerk

Item D:

Citizen Comments



Item E

Approval of 2012 Financial Audit

MEMO

To: City Council
From: Jolene E. Nelson, City Clerk
Date: June 28, 2013
Subject: Delta Housing Authority Board Appointment



Office of the City Clerk

Recommendation:

Staff recommends appointing Eddie Sanford to the Delta Housing Authority Board.

Background:

Bob Barnes has recently resigned from the board for personal reasons. His term expires June of 2014. This appointment will fill the remainder of his term. Staff did advertise for the opening and received one application.

Cost:

There is no cost to the City.

Alignment With Strategic Planning:

The Delta City Council adopted a resolution in 1973 stating “ the local governing body must meet and appoint Commissioners to its Local Housing Authority”

Actions To Be Taken if Approved:

Should Council choose to appoint Mr. Sanford, the Clerk will notify Jo Rosenquist with the Delta Housing Authority.

MEMO

To: City Council
From: Jolene E. Nelson, City Clerk
Date: June 27, 2013
Subject: Beer and Wine License Renewal; House of Chin



Office of the City Clerk

Recommendation:

Staff recommends approval of a beer and wine license renewal for House of Chin Inc. /DBA House of Chin located at 142 Eaton Ave. The Police Department's report and recommendation is attached.

Background:

The current liquor license expires July 1, 2013. Since the application submitted their renewal application before the due date they are still able to continue to serve the alcohol permitted for their type of license.

Cost:

There is no cost to the City to renew the license. The applicant has paid the \$351.25 renewal fee to the State, the City renewal fee of \$123.75 as well as the City liquor occupation tax of \$250.00.

Alignment With Strategic Planning:

Per Delta Municipal Code 5.10.010 "the Delta City Council is hereby designated the local licensing authority for the purposes of exercising the duties and powers provided for in the Colorado Beer Code and the Colorado Liquor Code."

Actions 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.

LIQUOR OR 3.2 BEER LICENSE RENEWAL APPLICATION

Fees Due	
Renewal Fee	
Storage Permit \$100 x _____	_____
Optional Premise \$100 x _____	_____
Amount Due/Paid	

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 may collect the payment amount directly from your banking account electronically.

PLEASE VERIFY & UPDATE ALL INFORMATION BELOW

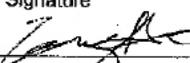
RETURN TO CITY OR COUNTY LICENSING AUTHORITY BY DUE DATE

Licensee Name Hose of Chin Inc		DBA House of Chin		
Liquor License # 25-54794-0000	License Type 1960	Sales Tax License # 02557497-0000	Expiration Date Jul 01, 2013	Due Date
Street Address 142 Eaton Ave				Phone Number 970-874-4884
Mailing Address				
Operating Manager ZongYong He	Home Address 360 Howard St Delta CO 81416	Phone Number 970-874-4884		

1. Do you have legal possession of the premises at the street address above? YES NO
 Is the premises owned or rented? Owned Rented* *If rented, expiration date of lease January 2020
2. Since the date of filing of the last annual application, has there been any change in financial interest (new notes, loans, owners, etc.) or organizational structure (addition or deletion of officers, directors, managing members or general partners)? If yes, explain in detail and attach a listing of all liquor businesses in which these new lenders, owners (other than licensed financial institutions), officers, directors, managing members, or general partners are materially interested. YES NO
NOTE TO CORPORATION, LIMITED LIABILITY COMPANY AND PARTNERSHIP APPLICANTS: If you have added or deleted any officers, directors, managing members, general partners or persons with 10% or more interest in your business, you must complete and return immediately to your Local Licensing Authority, Form DR 8177: Corporation, Limited Liability Company or Partnership Report of Changes, along with all supporting documentation and fees.
3. Since the date of filing of the last annual application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been convicted of a crime? If yes, attach a detailed explanation. YES NO
4. Since the date of filing of the last annual application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been denied an alcohol beverage license, had an alcohol beverage license suspended or revoked, or had interest in any entity that had an alcohol beverage license denied, suspended or revoked? If yes, attach a detailed explanation. YES NO
5. Does the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) have a direct or indirect interest in any other Colorado liquor license, including loans to or from any licensee or interest in a loan to any licensee? If yes, attach a detailed explanation. YES NO
6. **SOLE PROPRIETORSHIPS, HUSBAND-WIFE PARTNERSHIPS AND PARTNERS IN GENERAL PARTNERSHIPS:** Each person must complete and sign the DR 4679: Affidavit – Restriction on Public Benefits (available online or by calling 303-205-2300) and **attach a copy of their driver's license, state-issued ID or valid passport.**

AFFIRMATION & CONSENT

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.

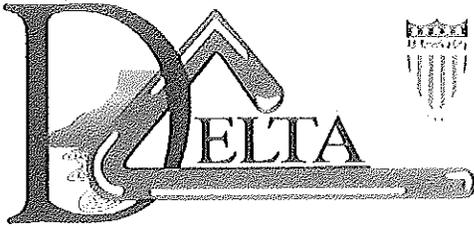
Type or Print Name of Applicant/Authorized Agent of Business Zong Yong He	Title President
Signature 	Date June 17, 2013

REPORT & 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

City of



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

LIQUOR LICENSE RENEWAL RECOMMENDATION

To: City Council

Re: Application of House of Chin, Inc.
DBA: House of Chin

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

MEMO

To: City Council
From: Justin Clifton, City Manager
Date: June 28, 2013
Subject: Consideration of Burn Restrictions



Office of the City Manager

Recommendation:

Staff recommends that Council consider whether or not to impose burn restrictions within the City of Delta.

Background:

On June 17, 2013 the Delta Board of County Commissioners passed resolution 2013-R-029 imposing burn restrictions in the unincorporated areas of Delta County. The restrictions were imposed based on the dry conditions and increased risk of dangerous fire.

I engaged Jason Cooley with the Delta Fire Protection District NO. 1 and Chief Thomas regarding the need to impose fire restrictions. Both agree that the situation in the City of Delta is very different from the situation in the County. We have far less vulnerability to fire and burn restrictions may be too burdensome given the circumstances. Nevertheless, this should be something that Council considers to make sure we maintain ultimate accountability to our citizens.

Cost: NA

Alignment With Strategic Planning:

Please see the enclosed Chapter 8.08 on Burning Restrictions. Also included is section Chapter 8.28 pertaining to fireworks regulations. These sections outlines what is allowed and disallowed currently. Although section 8.08 is not specific with regards to how to impose further restrictions, the reference to the ability to impose restrictions is clear. Staff believes a motion by Council is all that is required to take action and that a resolution is unnecessary at this point.

Actions To Be Taken if Approved:

Depending on the outcome, staff will either issue and publicize burn restrictions or not. If burn restrictions are imposed, the Delta Police Department will be charged with issuing citations for any violations to the restrictions.

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.

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.

(Prior Code §9-11; Ord. 8, 1987; Ord. 16, §1, 2012)

Chapter 8.28

FIREWORKS REGULATIONS

Sections:

- 8.28.010 General provisions.
- 8.28.020 Temporary stands.
- 8.28.030 Fireworks prohibited in certain areas.
- 8.28.040 Nuisance declared.

8.28.010 General provisions.

A. The manufacture, sale and use of fireworks within the City shall be subject to the provisions of state statutes and regulations including C.R.S. 12-28-101 et seq. and the provisions of this Code. Whichever restrictions are the more stringent shall control in the case of any conflict. "Fireworks" as used in this Chapter shall include all items commonly known or sold as fireworks.

B. No fireworks display may be conducted without the approval of the City Council. The applicant must submit proof of general liability insurance for the event in a minimum amount equal to the liability limits as set out in the Colorado Intergovernmental Immunity Act for property damage and bodily injury. Fireworks and shells to be used in authorized public displays shall be stored, held, and handled in accordance with the conditions of the permit.

C. No fireworks may be manufactured within the City of Delta.

D. Except for fireworks held for an immediate and lawful retail sale, no fireworks may be stored within the City except within the Industrial District 1. No fireworks may be stored unless a permit for storage is obtained from the City. All storage facilities shall meet the requirements of the Code for the Manufacture, Transportation and Storage of Fireworks, N.F.P.A. 1124-1984 as published by the National Fire Protection Association. In addition, all applicable storage requirements of state and federal law shall be met. The permit may be revoked for failure to comply with applicable requirements.

E. It shall be unlawful to sell fireworks at retail within the City of Delta except for (1) sales allowed by C.R.S. 12-28-106, and (2) except for sales of those items allowed under state law including toy caps which do not contain more than twenty-five hundredths of a grain of explosive compound per cap, sparklers, trick matches, cigarette loads, trick noise makers, toy smoke devices and novelty auto alarms, so long as such

devices are not capable of flight, do not travel in excess of ten feet in any direction and do not produce loud noises.

F. Any person selling fireworks shall prohibit smoking and open flames within fifty feet of the location of the fireworks and post "No Smoking" signs accordingly. Retail sales of fireworks allowed pursuant to paragraph (E) (2) may be made only from June 1st to July 5th of any year.

G. No fireworks shall be sold from any motor vehicle, travel home, trailer, or any other vehicle. (Ord. 7, §1(part) 1988)

8.28.020 Temporary stands.

A. No fireworks may be sold from a temporary stand until a permit for the stand has been obtained from the City.

B. Applications for a permit for a temporary stand shall be made on forms supplied by the City which shall contain information as convenient to administer provisions of this Section.

C. Submitted with the application shall be an application fee in the amount of \$25.00 and a Certificate of Insurance indicating general liability insurance in an amount not less than \$150,000 per person, \$400,000 per occurrence for property damage and bodily injury, which may not be cancelled without at least thirty days notice to the City.

D. No permit shall be issued unless the City determines that the following criteria are met:

1. The applicant has a City Sales and Use Tax License and none of the applicant or its agents, employees or principals have fail to pay or remit City Sales or Use Tax in previous years.

2. Any applicable provisions of the Transient Merchant Regulations have been met.

3. The building inspector has approved the plans for the stand pursuant to Section 104(e) of the Uniform Building Code.

4. A clear zone of at least fifty feet shall be maintained around the stand.

5. The stand shall have at least one exit door a minimum of twenty inches in width and six feet in height which swings out in the direction of egress. Stands over twenty-five feet in length shall have at least two doors.

6. Each stand shall have at least one exit door a minimum of twenty inches in width and six feet in height which swings out in the direction of egress. Stands over twenty-five feet in length shall have a fire extinguisher at each end.

7. Vegetation around the stand shall be no more than two inches above grade except for trees and shrubs.

8. No smoking or burning shall be allowed within fifty feet of the stand. No fireworks shall be discharged within fifty feet of any stand.

E. The City Manager may revoke any permit if he determines at a hearing with reasonable notice that the above criteria are not being met. Any permit may be temporarily suspended pending such hearing.

F. Additional terms and conditions may be included in any permit as necessary to protect the public safety and welfare and to prevent fire hazards. (Ord. 7, §1(part), 1988)

8.28.030 Fireworks prohibited in certain areas. It shall be unlawful to discharge any fireworks in City parks or areas where a fire hazard exists. (Ord. 7, §1(part), 1988)

8.28.040 Nuisance declared. Any violation of this Chapter is hereby declared to be a nuisance which may be abated in any lawful manner. (Ord. 7, §1(part), 1988)

Attorney Comments



City Manager Comments



Councilmember Comments

