



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 20, 2013
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; Delta Area Chamber of Commerce**
- F. 3/2% Beer Off Premises License Renewal; City Market**
- G. Report of Changes; Delta El Tapatio, Inc.**
- H. Council Bill #4, 2013; First Reading
Retail Marijuana**
- I. Council Bill #5, 2013; First Reading
Rezone for 1570 G86 Lane**
- J. City Attorney Comments**
- K. City Manager Comments**
- L. 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 David Smith. 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 Raley to approve the minutes of the July 16, 2013 regular meeting as submitted by the Clerk. All in favor, motion carried.

Citizen Comments

There were none.

Recognition of Michael Schottelkotte

Mayor Sisson and City Manager Justin Clifton recognized Michael Schottelkotte for his years of service to the City of Delta as the City Attorney.

Mr. Schottelkotte thanked member of Council as well as staff for their support.

Public Hearing: CDBG Grant

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

The Clerk explained that this hearing is a requirement of the CDBG grant to receive any citizen comments.

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

Public Hearing: Special Events Permit Application; Delta Area Chamber of Commerce

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

The Clerk reported that the Delta Area Chamber of Commerce has submitted a special events permit application for their event on September 23, 2013. The application is complete and all fees have been paid. She stated a sign was posted at the site as required and no comments have been received.

Regular Meeting, Delta City Council, August 6, 2013 (cont.)

Public Hearing: Special Events Permit Application (cont.)

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

It was moved by Councilmember Cooper and seconded by Councilmember Jurca to approve the special events permit application for the Delta Area Chamber of Commerce. All in favor, motion carried.

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

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

The Clerk reported that the Delta County Memorial Hospital Foundation has submitted a special events permit application for their event on September 21, 2013. The application is complete and all fees have been paid. She stated a sign was posted at the site as required and no comments have been received.

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

It was moved by Councilmember Penick and seconded by Councilmember Raley to approve the special events permit application for the Delta County Memorial Hospital Foundation. All in favor, motion carried.

CML Policy Committee Appointment

Manager Clifton stated that every member of CML has the ability to appoint an individual to the policy committee. Mary Cooper has served in the capacity for a few years and now is on the executive board so the City can consider another appointment.

Mayor Sisson stated he would be interested in serving on the committee.

It was moved by Councilmember Penick and seconded by Councilmember Jurca to approve Ed Sisson to be appointed to the CML Policy Committee. All in favor, motion carried.

Stantec Change Order

Manager Clifton stated that staff is recommending a change order for Stantec the environmental firm that has done some of the consulting serviced for the truck route. This change order is specifically regarding the remediation project where there was some soil contamination. This is an open ended requirement to remediate that site. The dollars that have been available in Stantec's contract have been exhausted; therefore additional funds are needed to continue to receive consulting services.

Public Works Director Jim Hatheway stated that staff has been very conscious of performing as many of the functions as they responsibly can with city forces. That has allowed the original

Regular Meeting, Delta City Council, August 6, 2013 (cont.)

Stantec Change Order (cont.)

task order to Stantec to extend beyond their original scope. He also stated that although the change order is for \$66,000, staff is hopeful they will not expend all that money.

Councilmember Cooper commended staff on using city crews to cut down costs.

Councilmember Jurca questioned if this is over and above the Wells contract.

Director Hatheway stated that this contract is for the consulting portion of the work. He explained what additional work has been needed within the project.

Mayor Sisson questioned if staff believes they may go over the amount.

Director Hatheway reported that they are continuing to work on the cells and some have gone as deep as 8ft. They will be doing some sampling before they move Wells in to do the excavation.

It was moved by Councilmember Cooper and seconded by Councilmember Raley to have city staff execute a change order for Stantec for the scope indentified in the memo. All in favor, motion carried.

City Attorney Comments

There were none.

City Manager Comments

Manager Clifton reported that the leadership team is meeting to discuss budget and are discussing the expenses. They will be presenting a consent budget to Council that well be well vetted.

Councilmember Comments

Councilmember Penick had received comments from citizens regarding weeds throughout the city and asked how the city staff is handling those calls. He stated that Manager Clifton researched that for him and the code enforcement department has set out 70 letters in the last two weeks. He questioned what the time frame was for following up on the letters.

Community Development Director Glen Black stated that the code does not specify a time limit so staff has implemented a timeline. The first letter goes out and they have 14 days, then a second notice is given giving only 7 days and, if not complete, a citation will be issued at that time.

Councilmember Penick stated he was prompted to drive around the city and see the weeds. His concern is the weeds within the streets that may damage the roadway causing additional costs to repair the roads.

Regular Meeting, Delta City Council, August 6, 2013 (cont.)

Executive Session

It was moved by Councilmember Jurca and seconded by Councilmember Cooper to convene an Executive Session for a conference with the City Attorney for the purpose of receiving legal advice on specific legal questions under CRS Section 24-6-402(4)(b); and 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 and discussions regarding issues related to the golf course snack bar lease. All in favor, motion carried.

At 7:21 p.m., the Regular Meeting was recessed. The Executive Session was convened a short time later.

At 7:55 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 Mary Cooper, Ray Penick, Robert Jurca and Bill Raley as well as City Manager Justin Clifton, Public Works Director Jim Hatheway, Golf Pro Rob Sanders and City Attorney David Smith. 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.

Ordinance #3, 2013; First and Final Reading Declaring an Emergency

Ordinance #3, 2013

AN EMERGENCY ORDINANCE OF THE CITY OF DELTA, COLORADO,
AUTHORIZING THE ACQUISITION OF CERTAIN REAL PROPERTY FROM
THE SENTENEY FAMLY TRUST FOR THE CONFLUENCE DRIVE PROJECT

was introduced as Council Bill #3, 2013 and read by the Clerk.

City Attorney David Smith stated that this is a small piece of property that the Senteney Family Trust that has laid a title claims to. This property is located between the property that they had dedicated to the City through a prior agreement and the existing railroad right of way. He reported that staff has attempted to negotiate with the Senteney Family Trust for acquisition of the property. He explained the eminent domain law. He also explained what the process will be should Council choose to move forward with the proposed emergency ordinance.

It was moved by Councilmember Penick and seconded by Councilmember Jurca to adopt Council Bill #3, 2013 on first and final reading declaring an emergency. Roll call vote: Councilmembers Cooper, aye; Penick, aye; Jurca, aye; Raley, aye and Sisson, aye. Council Bill #3, 2013 was adopted on first and final reading declaring an emergency as Ordinance #3, 2013.

Regular Meeting, Delta City Council, August 6, 2013 (cont.)

Approval of Stockyards Settlement Agreement

Manager Clifton stated that there have been settling discussion regarding property just adjacent to the property just discussed. This property involves parking and turning movements as a result of the truck route. This agreement solidifies what will happen when the exchange agreement with the railroad is concluded. He explained what the agreement entails.

Councilmember Penick questioned if this agreement was drafted from Mr. Smith.

Manager Clifton stated it was drafted by Mike Schottelkotte and largely from Stockyard's attorney.

Attorney Smith suggested that if Council is inclined to make a motion to approve the agreement, he would recommend adding the authority for the Mayor to execute the necessary documents that are attached as exhibits so that those do not have to be brought back before Council.

Manager Clifton also suggested adding the ability to allow some authority for amendments that may be necessary.

It was moved by Councilmember Raley and seconded by Councilmember Cooper to approve the Stockyard's settlement agreement and authorize the Mayor to make any changes that are necessary and to sign any necessary documents and exhibits. All in favor, motion carried.

The meeting was adjourned at 8:07 p.m.

/s/ Jolene E. Nelson
Jolene E. Nelson, City Clerk

Item D:

Citizen Comments



MEMO

To: Mayor and City Council
From: Jolene Nelson, City Clerk
Date: August 14, 2013
Subject: Delta Area Chamber of Commerce Special Event Permit



Office of the City Clerk

Recommendation:

Staff recommends approving the application for a Special Events Liquor Permit for Delta Area Chamber of Commerce Special Event for their fund raiser scheduled at Bill Heddles Recreation Center on September 26, 2013.

Background:

The Delta Area Chamber of Commerce has submitted an application for a Special Events Liquor Permit for their fund raiser to be held at Bill Heddles Recreation Center in conjunction with the coal conference. The application specifies that they plan to sell alcoholic beverages from 5:00 p.m. to 9:00pm.

The application is complete and the fees; \$35 to the City and \$25 to the State for each day, 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. As of the writing of this memo, no comments, either for or against the approval of the application, have been received by the City Clerk.

Cost:

There is no cost to the City.

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

APPLICATION FOR A SPECIAL EVENTS PERMIT

Department Use Only

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

- | | | |
|--|--|--|
| <input checked="" type="checkbox"/> SOCIAL | <input type="checkbox"/> ATHLETIC | <input type="checkbox"/> PHILANTHROPIC INSTITUTION |
| <input type="checkbox"/> FRATERNAL | <input type="checkbox"/> CHARTERED BRANCH, LODGE OR CHAPTER | <input type="checkbox"/> POLITICAL CANDIDATE |
| <input type="checkbox"/> PATRIOTIC | <input type="checkbox"/> OF A NATIONAL ORGANIZATION OR SOCIETY | <input type="checkbox"/> MUNICIPALITY OWNING ARTS FACILITIES |
| <input type="checkbox"/> POLITICAL | <input type="checkbox"/> RELIGIOUS INSTITUTION | |

LIAB TYPE OF SPECIAL EVENT APPLICANT IS APPLYING FOR:	DO NOT WRITE IN THIS SPACE
2110 <input checked="" type="checkbox"/> MALT, VINOUS AND SPIRITUOUS LIQUOR \$25.00 PER DAY	LIQUOR PERMIT NUMBER
2170 <input type="checkbox"/> FERMENTED MALT BEVERAGE (3.2 Beer) \$10.00 PER DAY	

1. NAME OF APPLICANT ORGANIZATION OR POLITICAL CANDIDATE <i>Delta Area Chamber of Commerce</i>	State Sales Tax Number (Required) <i>00401876-0000</i>
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2. MAILING ADDRESS OF ORGANIZATION OR POLITICAL CANDIDATE (include street, city/town and ZIP) <i>301 Main St Delta CO 81416</i>	3. ADDRESS OF PLACE TO HAVE SPECIAL EVENT (include street, city/town and ZIP) <i>Bill Heddes Rec Center 530 Gunnison River Dr Delta CO 81416</i>
--	---

NAME	DATE OF BIRTH	HOME ADDRESS (Street, City, State, ZIP)	PHONE NUMBER
4. PRES./SEC'Y OF ORG. or POLITICAL CANDIDATE <i>Gynce Thomassen</i>		<i>14340 Sunny Slope Dr, Eckert CO 81418</i>	<i>970-201-4861</i>
5. EVENT MANAGER <i>Kami Collins</i>		<i>2745 Roseman Rd, Delta CO 81416</i>	<i>970-361-8905</i>

6. HAS APPLICANT ORGANIZATION OR POLITICAL CANDIDATE BEEN ISSUED A SPECIAL EVENT PERMIT THIS CALENDAR YEAR? <input type="checkbox"/> NO <input checked="" type="checkbox"/> YES HOW MANY DAYS? <i>84</i>	7. IS PREMISES NOW LICENSED UNDER STATE LIQUOR OR BEER CODE? <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES TO WHOM?
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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	Date	Date	Date	Date
<i>9-26-13</i>				
Hours From <i>5</i> P.m. To <i>10</i> P.m.	Hours From .m. To .m.			

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 <i>[Signature]</i>	TITLE <i>Executive Director</i>	DATE <i>8-1-13</i>
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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)	<input type="checkbox"/> CITY	TELEPHONE NUMBER OF CITY/COUNTY CLERK
	<input type="checkbox"/> COUNTY	
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)	\$.

MEMO

To: City Council
From: Jolene E. Nelson, City Clerk
Date: July 11, 2013
Subject: 3.2% Beer License Renewal; City Market #4



Office of the City Clerk

Recommendation:

Staff recommends approval of a beer license renewal for the City Market #4 located at 122 Gunnison River Drive. The Police Department's report and recommendation is attached.

Background:

The current liquor license expires September 17, 2013.

Cost:

There is no cost to the City to renew the license. The applicant has paid the \$96.25 renewal fee to the State, the City renewal fee of \$78.75 as well as the City liquor occupation tax of \$150.00.

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	\$96.25
Storage Permit \$100 x _____	_____
Optional Premise \$100 x _____	_____
Amount Due/Paid	

CITY MARKET #4
 PO BOX 305103
 NASHVILLE TN 37230-5103

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 DILLON COMPANIES INC		DBA CITY MARKET #4		
Liquor License # 01107790123	License Type 3.2% Beer Off Premises (city)	Sales Tax License # 01107790123	Expiration Date 9/17/2013	Due Date 8/3/2013
Street Address 122 GUNNISON RIVER DR DELTA CO 81416-1856				Phone Number (970) 874 9718
Mailing Address PO BOX 305103 NASHVILLE TN 37230-5103				
Operating Manager Edward J. Abila		Home Address 5869 Sawmill Mesa Rd., Delat, CO 81416		Phone Number 970-874-9718

- 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 _____
- 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.
- 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
- 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
- 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
- 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. N/A

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 Russ Dispense	Title Vice President
Signature 	Date 6/4/13

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



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:

Recommend liquor license renewal.

Police Department recommendation:

Robert Thomas, Chief of Police

MEMO

To: City Council
From: Jolene E. Nelson, City Clerk
Date: June 13, 2013
Subject: Report of Changes; Delta El Tapatio, Inc.



Office of the City Clerk

Recommendation:

Staff recommends approval of the Report of Changes that has been submitted.

Background:

El Tapatio is changing their registered manager and therefore has submitted a report of changes.

Cost:

There is no cost to the City. The applicant has paid the \$75.00 renewal fee to the State.

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 report of changes and the Clerk will mail it to the State.

PERMIT APPLICATION AND REPORT OF CHANGES

CURRENT LICENSE NUMBER _____
ALL ANSWERS MUST BE PRINTED IN BLACK INK OR TYPEWRITTEN
LOCAL LICENSE FEE \$ _____
APPLICANT SHOULD OBTAIN A COLORADO LIQUOR & BEER CODE BOOK TO ORDER CALL (303) 370-2165

1. Applicant is a		PRESENT LICENSE NUMBER
<input checked="" type="checkbox"/> Corporation <input type="checkbox"/> Individual <input type="checkbox"/> Partnership <input type="checkbox"/> Limited Liability Company		12779300000
2. Name of Licensee	3. Trade Name	
DELTA, EL TAPATIO INC	EL TAPATIO	
4. Location Address		
353 MAIN ST		
City	County	ZIP
DELTA	CO	81416

SELECT THE APPROPRIATE SECTION BELOW AND PROCEED TO THE INSTRUCTIONS ON PAGE 2.

Section A - Manager reg/change	Section C
• License Account No. <u>12-77930-0000</u> 1983-750 (999) <input checked="" type="checkbox"/> Manager's Registration (Hotel & Restr.)..\$75.00 2012-750 (999) <input type="checkbox"/> Manager's Registration (Tavern).....\$75.00 <input type="checkbox"/> Change of Manager (Other Licenses) NO FEE	2210-100 (999) <input type="checkbox"/> Retail Warehouse Storage Permit (ea) \$100.00 2200-100 (999) <input type="checkbox"/> Wholesale Branch House Permit (ea).... 100.00 2260-100 (999) <input type="checkbox"/> Change Corp. or Trade Name Permit (ea) .50.00 2230-100 (999) <input type="checkbox"/> Change Location Permit (ea)..... 150.00 2280-100 (999) <input type="checkbox"/> Change, Alter or Modify Premises \$150.00 x _____ Total Fee _____ 2220-100 (999) <input type="checkbox"/> Addition of Optional Premises to Existing H/R \$100.00 x _____ Total Fee _____ 1988-100 (999) <input type="checkbox"/> Addition of Related Facility to Resort Complex \$75.00 x _____ Total Fee _____
Section B - Duplicate License	
• Liquor License No. _____ 2270-100 (999) <input type="checkbox"/> Duplicate License\$50.00	

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

DATE LICENSE ISSUED	LICENSE ACCOUNT NUMBER	PERIOD
-750 (999)	-100 (999)	
<small>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 bank account electronically.</small>		TOTAL AMOUNT DUE \$ _____ .00

MEMO

To: City Council
From: Justin Clifton, City Manager
Date: August 16, 2013
Subject: Amendment 64



Office of the City Manager

Recommendation:

Staff is following up on Amendment 64 and has included an ordinance to ban recreational marijuana facilities from operating within City limits.

Background:

On November 6, 2012 voters in Colorado passed a Constitutional Amendment legalizing recreational use of marijuana for adults 21 and older. The State has followed up with regulations this July governing facilities that will sell marijuana. There has been significant controversy over how to set up new rules the State has been rushed to accommodate the July deadline, which was mandated in the Amendment. In fact, the rules in place at this point are considered “emergency rules” that will last for 120 days while the State continues to vet permanent rules. However, these emergency rules are expected to be the basis upon which the final rules are made.

I’ve included a power point presentation from CML that provides a summary of the emergency rules and considerations for local governments that choose to allow and regulate recreation marijuana establishments. At the time of that presentation, 36 Boards/ Councils made the decision to ban establishments, 13 decided to allow establishments under the regulations outlined by the State, 28 continue in a moratorium.

It should be noted that Delta County voted against Amendment 64, 56% to 44%. Staff expects results of City voters even more heavily favor defeat of Amendment 64.

Cost:

There is no cost associated with banning recreational marijuana facilities. Allowing such facilities would come with significant costs associated with regulation. It is not clear what revenues could be derived from allowing recreational marijuana as that depends on licensing fees and any taxes levied on such establishments.

Alignment With Strategic Planning:

The City is charged with considering the health and welfare of its citizens in all policies it considers. Proponents of Amendment 64 would likely cite health and welfare concerns

over increased access to marijuana, especially among the youth. Advocates of Amendment 64 would likely cite the need to preserve individual liberties and promote business as reasons to allow recreational establishments.

Actions To Be Taken if Approved:

If Council approves the ordinance on first reading it will be returned to Council at the next regular meeting including any changes recommended by Council. After second reading it will be published and put into effect.



**Retail Marijuana ("RMJ")
Overview**

by Rachel Allen, staff attorney
and Kevin Bommer, deputy director

The contents of this presentation reflect the view of the presenter, not CML.



Amendment 64

Regulate the growth, manufacture, and sale of marijuana in a system of licensed establishments overseen by state and local governments;

Allow individuals who are 21 years old or older to possess, use, display, purchase, transport, and transfer (without remuneration), to individuals who are 21 years old or older—one ounce or less of marijuana

The contents of this presentation reflect the view of the presenter, not CML.



RMJ Timeline

- **July 1, 2013** – Department of Revenue ("DOR") shall adopt necessary regulations
- **October 1, 2013** – DOR shall begin accepting and processing license applications
- **October 1, 2013** – Localities must enact an ordinance or regulation specifying the entity within the locality that will be responsible for licensing
- **January 1, 2014** – DOR must begin issuing licenses
- **January 1, 2014** through October 1, 2014 additional triggers under HB 13-1317

The contents of this presentation reflect the view of the presenter, not CML.



Local Options for RMJ

- **By October 1, 2013**
 - Each locality shall enact an ordinance identifying the entity responsible for licensing
 - Local governments can, at any time, prohibit the operation of marijuana enterprises within their local limits by passing an ordinance

The contents of this presentation reflect the view of the presenter, not CML.



Local Options for RMJ

- Local governments may establish civil penalties for violation of ordinances or regulations governing time, place, manner, and number of operations
- Local governments may establish a schedule of operating fees for marijuana establishments

The contents of this presentation reflect the view of the presenter, not CML.



Additional Local Impacts of RMJ

- DOR must provide the local government with a copy of the license application and half of the application fee (\$250 or \$2,500) upon receipt
- Local governments must notify the DOR if an applicant is not in compliance with local ordinances prior to the issuance of the state license
- If the DOR does not issue a license within 90 days of receipt, the applicant can re-apply to the local government who will have the authority to approve the license without the consent of the DOR

The contents of this presentation reflect the view of the presenter, not CML.



Other Local Impacts of RMJ

- Licenses issued by local governments without state consent will have the same force and effect as a license issued by the DOR for the term of the license
- State has no jurisdiction over licenses issued by local governments, due to inaction by the state during the term of the license

The contents of this presentation reflect the view of the presenter, not WDCM.



HB13-1317, HB13-1318 and SB 13-283



The contents of this presentation reflect the view of the presenter, not WDCM.



4 License types established by HB13-1317

- Marijuana Cultivation Facility
- Marijuana Product Manufacturing Facility
- Marijuana Testing Facility
- Retail Marijuana Store

The contents of this presentation reflect the view of the presenter, not WDCM.



Marijuana Licensing Options

- Applicant may surrender the medical marijuana license upon issuance of retail marijuana license
- Applicant may opt to operate both retail and medical establishments
 - May only have both establishments at same location if the local jurisdiction permits it.
 - Retail and medical stores must have a physical separation between the two establishments unless both establishments intend only to sell to persons 21 years or older.

The contents of this presentation reflect the view of the presenter, not WDCM.



Revenue and taxation

- HB 13-1318 refers a single question to the November 2013 statewide ballot with two revenue raising components:
 - 15% excise tax on cultivated marijuana earmarked for school capital construction and
 - 10% special sales tax to be imposed over and above the state's normal 2.9% sales tax.
 - The legislature can increase or decrease the rate. Rate can go no higher than 15%
 - 15% shareback to local jurisdictions
- State sales tax and fee revenue earmarked for state "direct and indirect costs".
- Local shareback not earmarked

The contents of this presentation reflect the view of the presenter, not WDCM.



Additional Consideration for Local Governments

- However you address retail establishments, home grows are a whole different animal
 - May possess, use, show, buy and transport 1 ounce or less of marijuana and marijuana accessories if over 21.
 - May possess, grow, and transport up to 6 marijuana plants (3 or fewer flowering) if over 21.
 - Growing must take place in an "enclosed locked space" and not conducted openly and is not made available for sale.
 - May not be consumed "openly and publicly".

The contents of this presentation reflect the view of the presenter, not WDCM.



Additional Consideration for Local Governments

• Initiative & Referendum

- Nothing precludes proponents or opponents of RMJ from circulating a petition to refer a question to voters in an effort to overturn the Council's decision.
- Initiated or referred measure to opt-out can only appear on the ballot during an even numbered election year (i.e. Nov. 2014)

The contents of this presentation reflect the view of the presenter, not CML.



DOR Regulations

- DOR Regulations must address procedures for the issuance, renewal, suspension and revocation of a license to operate a marijuana establishment
- Fee schedules for application, licensing and renewal fees (the application fee shall not exceed \$5,000 adjusted annually for inflation, unless DOR determines a greater fee is necessary)
- An entity currently licensed under the Medical Marijuana Code may not be subject to an application fee of more than \$500 to apply for a license to operate a recreational marijuana establishment
- Qualifications for licensure to operate a RMJ establishment

The contents of this presentation reflect the view of the presenter, not CML.



DOR Regulations

- Security requirements for the operation of a marijuana establishment
- Labeling requirements for marijuana and marijuana products sold or distributed by a marijuana establishment
- Health and safety standards for the cultivation of marijuana and the manufacture of marijuana products
- Emergency Rule issued on the advertising and display of marijuana and marijuana products
- Civil penalties for the failure to comply with adopted regulations
- DOR must adopt regulations necessary for the implementation of Amendment 64 not later than July 1, 2013

The contents of this presentation reflect the view of the presenter, not CML.



DOR Rulemaking

- The emergency rules expire in 120 days. Copies available on DOR and CML websites.
- The permanent rulemaking process will provide opportunities to participate in the process through stakeholder working groups, written comments, and public testimony.
 - July 15, 2013 – DOR will file a Notice of Rulemaking with the Secretary of State and announce the members of the stakeholder working groups.
 - Week of August 19, 2013 – The formal rulemaking hearings will be held.

The contents of this presentation reflect the view of the presenter, not CML.



What's Everyone Else Doing?

Complete table is available at <http://www.cml.org/Marijuana.aspx>

Type of Issue	2012	2013
Board/Council Action to Prohibit	1	35
Board/Council Action to Regulate	0	0
Board/Council Action to comply with Amendment 64:	2	11
Totals	3	46
Moratoria	6	20

The contents of this presentation reflect the view of the presenter, not CML.



County Regulatory Status - Recreational Marijuana



The contents of this presentation reflect the view of the presenter, not CML.



What should we do?

- Review “**Key decision points**” section of CML’s Knowledge Now highlighting local authority to license and regulate RMJ establishments and the text of Amendment

The contents of this presentation reflect the view of the presenter, not WDCM.



Considerations for local regulation

- Whether to allow retail marijuana establishments to exist at all?
 - Opt-out?
 - Moratorium?
 - Conversion of MMJ only?

The contents of this presentation reflect the view of the presenter, not WDCM.



Considerations for local regulation

- Whether to prohibit the establishment of licensed retail marijuana businesses permanently, or to do so only until a certain date in the future at which time the municipality would reevaluate whether or not to allow such businesses to exist after some later date?

The contents of this presentation reflect the view of the presenter, not WDCM.



Considerations for local regulation

- Which of the four types of retail marijuana establishments will be allowed?
 - retail marijuana stores?
 - retail marijuana cultivation facilities?
 - retail marijuana products manufacturers?
 - retail marijuana testing facilities?

The contents of this presentation reflect the view of the presenter, not WDCM.



Considerations for local regulation

- Whether to provide a phase-in period during which only current medical marijuana licensees may be allowed to convert to retail marijuana establishments or add a retail marijuana license to current operations?
 - If so, for how long?
 - Allow changes of ownership during the phase-in period?
 - Allow changes in location during the phase-in period?

The contents of this presentation reflect the view of the presenter, not WDCM.



Considerations for local regulation

- Whether to allow collocation (i.e., dual use of the same location) for medical marijuana businesses and retail marijuana businesses?

The contents of this presentation reflect the view of the presenter, not WDCM.



Considerations for local regulation

- Whether to limit the number of businesses allowed in any of the four classes of state licensing and, if so, determine how to prioritize those who would compete for the limited number of approvals.

The contents of this presentation reflect the view of the presenter, not WDCO.



Considerations for local regulation

- Whether to establish and administer a separate local licensing requirement, or instead depend entirely on other laws (e.g., zoning and land use laws) to enforce “time, place, and manner” restrictions on retail marijuana establishments?

The contents of this presentation reflect the view of the presenter, not WDCO.



Considerations for local regulation

- Whether to adopt counterpart local regulations addressing some or all of the same subject matter being addressed in state regulations, or instead focus local regulations entirely on aspects of “time, place, and manner” that are not being regulated by the state?
 - character and background checks for state license applicants?
 - business operational standards?
 - product standards?

The contents of this presentation reflect the view of the presenter, not WDCO.



Considerations for local regulation

- Whether to establish hearing procedures and approval criteria for retail marijuana establishments?
 - Only for retail marijuana stores, or for other classes of state licensing as well?
 - Mandate public hearing requirements?
 - Criteria for approval: “needs and desires” and “reasonable requirements of the neighborhood” as it is for liquor licensing or something else?
 - Apply same approval procedures and criteria equally to existing medical marijuana licensees who seek to convert to or add a retail marijuana license?

The contents of this presentation reflect the view of the presenter, not WDCO.



Considerations for local regulation

- Whether to impose spacing restrictions?
 - For retail marijuana stores, or for other classes of state licensing as well?
 - Carry forward any existing spacing requirements currently imposed upon medical marijuana centers?
 - Carry forward any existing grandfathering provisions currently enjoyed by medical marijuana centers and cultivators under previous city licensing and zoning laws?
 - Adopt new forms of spacing requirements to be applied to retail marijuana establishments?

The contents of this presentation reflect the view of the presenter, not WDCO.



Considerations for local regulation

- Whether to impose other location restrictions on retail marijuana establishments through zoning or otherwise, e.g., by identifying specific zone districts in which retail marijuana establishments are or are not allowed?

The contents of this presentation reflect the view of the presenter, not WDCO.



Considerations for local regulation

- Whether to impose special restrictions on signs and advertising?
 - Defer to state restrictions?
 - Carry forward restrictions previously imposed on medical marijuana centers and apply the same to retail marijuana establishments?
 - Adopt new restrictions?

The contents of this presentation reflect the view of the presenter, not WDCO.



Considerations for local regulation

- To the extent a municipality establishes a local licensing and regulatory regime, what is an appropriate annual “operating fee” to impose upon licensed retail marijuana establishments?
 - Definition in statute purposely written as a catch-all
 - Can also include costs related to enforcement

The contents of this presentation reflect the view of the presenter, not WDCO.



Considerations for local regulation

- Whether board or council members want to allow retail marijuana businesses to exist in the municipality at all if the state defaults on its licensing and regulatory responsibility by failing to act on any license application, the state licensing authority receives within 90 days?

The contents of this presentation reflect the view of the presenter, not WDCO.



Considerations for local regulation

- In general, any implementing ordinance allowing retail marijuana establishments to exist should establish “civil penalties” for violation of city requirements.

The contents of this presentation reflect the view of the presenter, not WDCO.



Considerations for local regulation

- Whether to include criminal code provisions? (might consider those stripped from SB13-283)

The contents of this presentation reflect the view of the presenter, not WDCO.



Considerations for local regulation

- Any implementing ordinance allowing retail marijuana establishments to exist should:
 - Clearly identify a single point of contact with whom the state licensing authority will interact to determine whether or not a particular license application or other licensing action complies with local requirements, and;
 - Specify deadlines for responding to the state regarding new license approvals and other licensing actions.

The contents of this presentation reflect the view of the presenter, not WDCO.



Considerations for revenue

- Whether to budget and appropriate monies to provide additional resources for marijuana-related regulatory enforcement and services?

The contents of this presentation reflect the view of the presenter, not WCDAC.



Considerations for revenue

- Whether to require marijuana establishments to post a marijuana tax bond to ensure the payment of local taxes by these retail establishments?

The contents of this presentation reflect the view of the presenter, not WCDAC.



Considerations for revenue

- Whether to refer to the ballot a question imposing additional local sales or excise tax on marijuana?
 - If your board or council decides to refer a ballot question, then what rate?
 - Earmark the revenues for a purpose?

The contents of this presentation reflect the view of the presenter, not WCDAC.



Considerations for revenue

- Additional tax considerations include:
 - What to do with state share back?
 - What to do with existing sales tax revenues derived from medical and/or retail marijuana operations?
 - Opt to levy an additional sales or excise tax?

The contents of this presentation reflect the view of the presenter, not WCDAC.



Considerations for revenue

- Whether to impose operating fees on retail marijuana establishments?

The contents of this presentation reflect the view of the presenter, not WCDAC.



Additional questions?

visit <http://www.cml.org/Marijuana.aspx>

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(303) 831-6411 or (866) 578-0936 (toll free)

The contents of this presentation reflect the view of the presenter, not WCDAC.



Council Bill #4, 2013

AN ORDINANCE OF THE DELTA CITY COUNCIL PROHIBITING RETAIL MARIJUANA ESTABLISHMENTS WITHIN CITY LIMITS.

WHEREAS, Colorado voters approved an amendment to the Colorado Constitution, Article XVIII, Section 16, which allows for the retail sale of marijuana in the State of Colorado; and

WHEREAS, Article XVIII, Section 16, of the Colorado Constitution authorizes local governments, such as the City of Delta, to prohibit the operation of retail marijuana establishments through the enactment of an ordinance; and

WHEREAS, C.R.S. § 12-43.4-104(3) authorizes a local jurisdiction such as the City of Delta to enact ordinances or regulations prohibiting the operation of retail marijuana establishments; and

WHEREAS, this action is also permitted under the Charter of the City of Delta and municipal police powers of the City Council which permits the Council to legislate and regulate the City as appropriate;

WHEREAS, the City Council has considered comments and testimony offered by members of the public offered at the public meetings where this ordinance was considered; and

WHEREAS, the City Council has carefully considered the provisions of Article XVIII, Section 16, of the Colorado Constitution, the impacts of retail marijuana establishments on the health, safety, and welfare of the City and the citizens thereof, the costs of regulation balanced against the potential revenues from sales tax proceeds, and has determined that retail marijuana establishments should not be located within the corporate limits of the City.

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

1. Recitals. The foregoing recitals are incorporated herein as findings and determinations of the Delta City Council.
2. Amendment. The City Council hereby amends the Delta Municipal Code by the addition of a new Chapter 8.38 as follows:

Chapter 8.38 Retail Marijuana Establishments Prohibited

8.38.010 Definitions

The terms used in this Chapter, unless the context otherwise requires, shall have the same meanings defined in the Colorado Retail Marijuana Code, Title 12,

Article 43.4, Colorado Revised Statutes, as now existing or as hereafter amended by the state legislature.

8.38.020 Retail Marijuana Establishments Prohibited

It is unlawful for any person to operate, cause to be operated, or permit to be operated, any retail marijuana establishment, including a retail marijuana store, marijuana cultivation facility, marijuana testing facility, or marijuana product manufacturing facility within the City limits, or within any area hereinafter annexed to the City, and also declares the same to be a public nuisance under Chapter 8.24.010 of the Delta Municipal Code.

8.38.030 Penalties

1. A violation of any provision of this Chapter shall be punishable by a fine of not more than \$1,000 or imprisonment for not more than one (1) year, or by both such fine and imprisonment.

2. Each and every day a violation of the provisions of this Chapter is committed, exists or continues shall be deemed a separate offense.

3. The City is authorized to seek an injunction, abatement, restitution or any other remedy necessary to prevent, enjoin, abate, or remove the violation; and

4. Any remedies provided for herein shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law or in equity.

3. Severability. Each section of this Ordinance is an independent section and a holding of any section or part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other section or part thereof.

4. Safety Clause. The City Council hereby finds, determines, and declares that this Ordinance is promulgated pursuant to the City's home rule authority and under the general police power of the City of Delta and that it is promulgated for the protection of health, safety, and welfare of the citizens of the City of Delta. The City Council further determines that this Ordinance bears a rational relationship to the legislation proposed herein.

5. Effective Date. This Ordinance shall be effective thirty (30) days after final publication as required by the City Charter and C.R.S. § 31-16-105.

INTRODUCED on August 20, 2013, at which time copies were available to the Council and to those persons in attendance at the meeting, read by title, passed on first reading, and ordered published in full and posted in at least two public places within the City as required by the Charter.

CITY OF DELTA, COLORADO

By: _____
Edward C. Sisson, Mayor

ATTEST:

Jolene E. Nelson, City Clerk

INTRODUCED a second time at a regular meeting of the Council of the City of Delta, Colorado on _____, 2013, read by title and number, passed without amendment, approved, and ordered published as required by the Charter.

CITY OF DELTA, COLORADO

By: _____
Edward C. Sisson, Mayor

ATTEST:

Jolene E. Nelson, City Clerk

MEMO

To: City Council, City Manager
From: Glen L. Black
Date: August 20, 2013
Subject: Zoning Amendment 1570 G 86 Lane

GLB



Community Development

Recommendation: The City of Delta Planning Commission recommends that the zoning designation for 1570 G 86 Lane be amended from R1-A to B-2.

Background: The City of Delta Planning Commission held a public hearing regarding the proposed zoning amendment for 1570 G 86 Lane on August 5, 2013. The public hearing was noticed in accordance to Delta Municipal Code 17.04.290.

The Planning Commission found that the following requirements of Delta Municipal Code 17.04.270 were met.

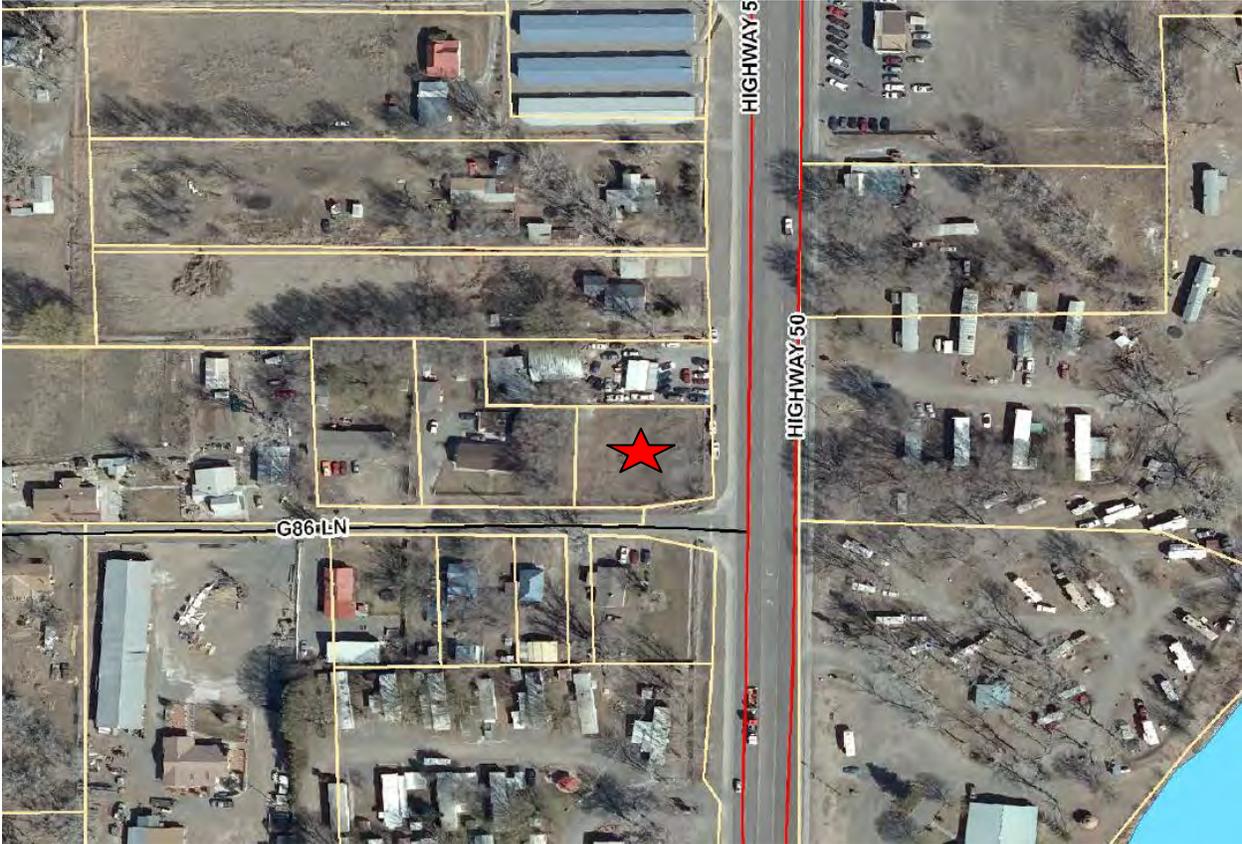
1. The amendment is not adverse to the public health, safety, and welfare; **and**
2. a. The amendment is in substantial conformity with the Master Plan; **and**
b. The existing zoning is erroneous;

Cost: There is not a significant cost to the City. Costs include staff time to update the zoning map.

Alignment With Strategic Planning: The proposed zoning amendment is in conformity with the Comprehensive Master Plan approved by the Planning Commission and City Council in 2008. The property to be considered for the rezone is currently zoned R1-A and is located in the future Highway Commercial Design District which includes the current zoning designations of B-2, OR, R-3, and R-4.

Actions To Be Taken if Approved: Consider passing the ordinance on first reading, amending the zoning district designation of 1570 G 86 Lane from R1-A to B-2.

Aerial Map



Council Bill #5, 2013

**AN ORDINANCE OF THE CITY OF DELTA, COLORADO,
AMENDING THE ZONING DESIGNATION OF 1570 G 86
LANE, DELTA, COLORADO FROM R-1A to B-2.**

WHEREAS, the owners of certain property known as 1570 G 86 Lane, Delta, Colorado has applied for re-zoning of the property to a designation that will allow for business usages as listed in the Master Plan Highway Commercial Design District and for uses that evolved after the properties were last classified for zoning purposes; and

WHEREAS, the property to be included within the area of the requested re-zoning are specifically described as follows:

Part of the SE1/4 of the NW1/4 of the NE1/4 of Section 13, Township 15 South, Range 96 West of the 6th Principal Meridian, described as beginning at a point on the West right of way line of U.S. Highway No. 50 whence the Southeast corner of the NW1/4 of the NE1/4 of Section 13, Township 15 South, Range 96 West of the 6th Principal Meridian bears South 7°11' East 454.88 feet; Thence North 0°56' East 124.52 feet along the West right of way line of said highway; Thence West 130.81 feet; Thence South 3°12' West 124.70 feet; Thence East 135.74 feet more or less to point of beginning; and

WHEREAS, the City of Delta's Planning Commission, following a proper public hearing on the re-zoning application, has recommended that the zoning classification for the property be changed, as requested, from the present designation of R-1A to a new designation of B-2; and

WHEREAS, the Delta City Council finds that the requested zoning change will not be adverse to the public health, safety and welfare and that the requested zone designation complies with the Master Plan and that the current zoning of the area is erroneous. Therefore, as previously determined by the City Planning Commission, the requested zoning amendment meets the criteria for zoning changes set forth in Delta Municipal Code Section 17.04.270.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DELTA, COLORADO, as follows:

Section 1. The foregoing recitals are hereby adopted and made findings of the Delta City Council.

Section 2. The zoning designation for the property in the City of Delta, Colorado that is specifically described above and that has the address listed above, is hereby changed from R-1A to B-2.

Section 3. The official zoning map of the City shall be amended as soon as practicable to reflect the zoning change for the subject property as approved by this ordinance.

Section 4. This Ordinance shall be effective thirty(30) days after final publication as required by the City Charter and C.R.S.

ADOPTED ON FIRST READING AND ORDERED PUBLISHED this _____ day of _____, 2013.

Mayor

ATTEST:

City Clerk

ADOPTED ON SECOND AND FINAL READING AND ORDERED PUBLISHED this _____ day of _____, 2013.

Mayor

ATTEST:

City Clerk

Attorney Comments



City Manager Comments



Councilmember Comments

