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

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Council may take formal action on any item appearing on this Agenda. However, formal action WILL NOT be taken at this meeting on any item of business first identified during the course of the meeting as a change to the Agenda, other business, or Citizen, Councilmember and Staff Comments.

## **A G E N D A**

**Delta City Council  
Regular Meeting**

**September 17, 2013  
7:00 p.m.**

- A. Pledge of Allegiance**
- B. Changes to the Agenda**
- C. Minutes**
- D. Citizen Comments**
- E. Library Historic Fund Project Update**
- F. Library Ballot Question Update**
- G. Transfer of Ownership: Tavern Liquor License; Throttle and Spurs Saloon**
- H. Hotel/Restaurant Liquor License Renewal; Gabriela's Restaurant**
- I. Discussion Regarding Horse Country Arena**
- J. Council Bill #6, 2013; First Reading  
Solicitation Regulations**
- K. City Attorney Comments**
- L. City Manager Comments**
- M. 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 August 20, 2013 regular meeting as submitted by the Clerk. All in favor, motion carried.

**Citizen Comments**

There were none.

**Discussion Regarding Solicitation Ordinance**

City Manager Justin Clifton stated that Council discussed this item a few months ago at a work session and were waiting for the City's new attorney to get on board. Delta's so called "Green River" ordinance prohibits door to door sales at residences within city limits. It appears that court precedence is slowing drifting towards considering an out-right prohibition of that kind of an activity and an infringement on commercial free speech. There are organizations that want to conduct this type of business that are willing to file suit against local municipalities. Delta would need to be prepared to defend the current ordinance. The other route Council may want to consider is creating an ordinance that would allow door to door sales with reasonable regulations. The proposed regulations are modeled after similar policies in Montrose and Fort Collins. He summarized those policies.

Councilmember Cooper questioned how the background checks would be conducted.

City Attorney David Smith stated that it would be similar to the background checks that are conducted for liquor licensing.

Councilmember Cooper questioned what companies this would apply to.

Attorney Smith reported that the way most of these ordinances are structured, it is anyone that wants to engage in the door to door solicitation. Typically, the larger companies will complete the application process; however, it would apply to everyone. He explained that part of the issue with some of the regulations is outreach on part of the City to make people aware of the regulations.

**Regular Meeting, Delta City Council, September 3, 2013 (cont.)**

**Discussion Regarding Solicitation Ordinance (cont.)**

Manager Clifton stated that the current ordinance, as well as the proposed regulations, applies to commercial door to door sales and does not apply to someone that wants to talk about politics or some religious organization.

Councilmember Cooper also questioned if this would apply to the phone solicitors.

Manager Clifton clarified that it would only apply to those that are not invited and for the purpose of commercial sales.

Mayor Sisson questioned if it would apply to the school kids conducting their fundraisers.

Manager Clifton stated if its commercial sales, it would apply unless Council implements an exemption.

Attorney Smith also stated that there is a fine line on those types of concerns. He is seeking Council's direction as to how they would like the regulations to read.

There was discussion regarding private residences along with businesses allowing others to conduct business on their property.

Councilmember Jurca stated that he is concerned about the hours of operation since sunset can be as late at 9:00pm or so.

Councilmember Cooper agreed and stated it needs to be clear cut and laid out properly.

There was consensus amongst Council for the hours to be from 9am to 6pm.

A draft will be presented and the next Council meeting.

**Ordinance #4, 2013 Second and Final Reading**

Ordinance #4, 2013

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

was introduced as Council Bill #4, 2013 and read by the Clerk.

Councilmember Cooper reported that the paper stated that Council really didn't discuss the ordinance before approving it. She stated that Council didn't discuss it an awful lot because it was so clear in the election that the residents do not want these types of businesses in their community.

It was moved by Councilmember Cooper and seconded by Councilmember Raley to adopt Council Bill #4, 2013 on second and final reading. Roll call vote: Councilmembers Cooper, aye; Penick, aye; Jurca, aye; Raley, aye and Sisson, aye. Council Bill #4, 2013 was adopted on second and final reading as Ordinance #4, 2013.

**Regular Meeting, Delta City Council, September 3, 2013 (cont.)**

**Ordinance #5, 2013; Second and Final Reading**

Ordinance #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

was introduced as Council Bill #5, 2013 and read by the Clerk.

Manager Clifton stated that there is one minor amendment that needs to be made on the last sentence, CRS should read State Statute.

It was moved by Councilmember Penick and seconded by Councilmember Jurca to adopt Council Bill #5, 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 #4, 2013 was adopted on second and final reading as Ordinance #5, 2013.

**City Attorney Comments**

There were none.

**City Manager Comments**

There were none.

**Councilmember Comments**

Councilmember Cooper stated that Scott Tipton will be holding a Town Hall Meeting this Thursday evening.

The meeting was adjourned at 7:12 p.m.

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

Item D:

Citizen Comments



# MEMO

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To: City Council  
From: Justin Clifton, City Manager  
Date: September 13, 2013  
Subject: Library State Historic Fund Project



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*Office of the City Manager*

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## **Recommendation:**

Staff is providing an update and seeking input on the Library State Historic Fund Project to rehabilitate the Delta Library.

## **Background:**

The Library District received approval from the City Council in February 2012 to move forward with plans to rehabilitate the Delta Library, portions of which are owned by the City. The Library District is about to move forward with Phase 1 of this project, which primarily involves repairs to the exterior block wall and landscaping improvements that will address drainage. The Library District has begun discussions with Community Development regarding building permits and any zoning requirements.

## **Cost:**

There is no cost to the City. However, the improvements are being performed on City property. A successful project will increase the value of the building while an unsuccessful one could create future costs.

## **Alignment With Strategic Planning:**

Article IV (F) of the City Charter states that: "The City shall create, maintain, operate, care for and improve from time to time as necessity requires, suitable public library for the use and benefit of the inhabitants of the City and the Council shall have authority to pass such resolutions and ordinances as are proper for such purposes and for the establishment of reasonable rules and regulations governing the use of the same."

## **Actions To Be Taken if Approved:**

Pending discussion and input from Council staff will continue with administrative oversight of building permits and zoning issues but will otherwise not participate in the project.

# MEMO

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To: City Council  
From: Justin Clifton, City Manager  
Date: September 13, 2013  
Subject: Library 2013 Ballot Question



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*Office of the City Manager*

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## **Recommendation:**

The Delta Library District would like to inform Council on its upcoming ballot question asking voters to approve a property tax increase. The Library District will be available to answer questions and take feedback from Council. It is unclear if the Library District will ask for formal support of the ballot question.

## **Background:**

The Library District has included information on the proposed mill levy increase on the accompanying "fact sheet." The District is proposing an increase from 3 mills to 4.67 (a 55.6% increase). Some of the funds are intended to cover building maintenance at the Delta Library, which the City owns. I recommend Council consider any tax increase questions carefully. The Library District has had the same mill levy since 1997. Services appear to be up substantially over that time, while property values (at least over the last few years) are down. However, it is also true that any tax question approved by the voters cashes in a political capital, which is a limited resource.

## **Cost:**

There is no direct cost to the City. However, there has always been a conundrum that the City does not put forth funding to maintain or improve the facility where the Delta Library is housed despite significant need. While the Library District has moved ahead with certain improvements, there is little doubt that additional funding would enhance its ability to take on building maintenance responsibilities.

## **Alignment With Strategic Planning:**

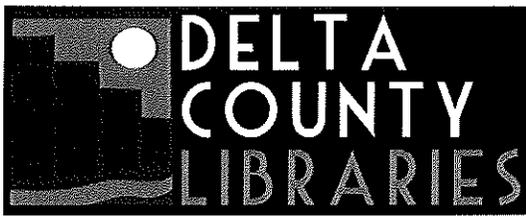
Article IV (F) of the City Charter states that: "The City shall create, maintain, operate, care for and improve from time to time as necessity requires, suitable public library for the use and benefit of the inhabitants of the City and the Council shall have authority to pass such resolutions and ordinances as are proper for such purposes and for the establishment of reasonable rules and regulations governing the use of the same."

The City has met its Charter obligation largely by allowing the use of the building where the Delta Library is housed. While support or opposition to a ballot questions does not

constitute greater or lesser fulfillment of the Charter obligation, the Charter language makes clear that library services were considered highly important when the Charter was established.

**Actions To Be Taken if Approved:**

Staff will compose any documents of support or opposition at the direction of Council. Alternatively, there will be no action if Council simply accepts the update and provides feedback to the Library District.



# Fact Sheet

## 2013 Ballot Question

### Our libraries are lively community centers:

- 325,764 Patrons visited the libraries in 2012
- 2,981 Programs and classes offered in 2012
- 156,052 Items borrowed the first 6 months of 2013
- Service to schools and community locations
- Five convenient community libraries

### Dramatic growth continued in 2012:

- Patron assistance, including computer help, up 85%
- Wireless use up 61%
- Attendance at programs up 29%
- Computer use up 28%
- Children's Summer Reading program up 18%
- Patron visits up 5%, each of the last 3 years

### What about funding?

- Delta County Libraries are funded through a taxing district with a property tax mill levy of 3.0, approved by voters in 1997. Tax revenues can only be used for library purposes.
- In 2011 the property value of the county decreased 13% which resulted in decreased revenue for the Library District.
- In response to reduction of revenues, the district restructured, streamlined systems and processes, made reductions in staff and open hours, and used savings from previous years.
- We are facing further reductions in revenue due to 2013 property value reductions projected at 5%-7% or more, making a total 18%, or more, tax revenue reduction since 2011.
- Without additional revenues it will become impossible to maintain the current levels of service.

Although revenues are decreasing, basic business costs are increasing: facility maintenance costs, technology costs, and insurance costs are among the essential costs that continue to grow annually. Costs to provide varied collections and programs are also increasing, and it is essential to attract and retain experienced trained staff in all our libraries to serve the public.

This fall voters will be asked to vote, yes or no, via a mail-in ballot, on a library proposal to raise the District's mill levy by 1.67 mills, from 3.0 to 4.67, resulting in \$1.11 more per month or \$13.29 more a year on a \$100,000 home, or \$2.22 more per month or \$26.59 more a year on a \$200,000 home. The proposal will raise the 2014 expected tax revenues by approximately \$511,600.

## A "Yes" Vote Means

- Additional library open hours to meet patron needs
- More staff for programs and service
- Increased popular collections in all formats
- More databases for education and research
- Up to Date Technology
- More programs and classes for all ages and interests
- Well maintained facilities
- Replacing worn furniture and equipment
- Expansion and remodeling of facilities as needed

## Pro

An increase would ensure that library services, facilities and resources would remain strong to serve our communities.

The Library District efficiently manages its funds and has not asked for a tax increase since 1997. The District is debt free.

rev.9.10.13

## A "No" Vote Means

- Reduced open hours at libraries
- Fewer library staff
- Smaller collections in all formats including books and electronic materials
- Fewer computers and older technology
- Reductions in the number of programs and classes, including programs for seniors and children
- Aging facilities, furniture and equipment
- No library expansions

## Con

Approval of the 1.67 mill levy increase in 2013 would cost an extra \$2.22 per month, or \$26.59 more per year on a \$200,000 home.

It is up to individuals to find their own information and materials they need.

# MEMO

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To: City Council  
From: Jolene E. Nelson, City Clerk  
Date: September 12, 2013  
Subject: Transfer of Ownership: Tavern Liquor License;  
Throttle and Spurs Saloon



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*Office of the City Clerk*

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**Recommendation:**

Staff recommends approval of the Transfer of Ownership Application submitted by K&L Enterprises, LLC dba Throttle and Spurs Saloon for a Tavern Liquor License located at 1410 Valley View Drive #19, pending receipt of favorable FBI and CBI fingerprint reports on the new owners.

**Background:**

K&L Enterprises, LLC has purchased Sports Center Lounge and therefore has submitted an application to transfer the Tavern Liquor License. The owners of K&L Enterprises, LLC are Kenneth McClain and Laura Smith. Mr. McClain has submitted his fingerprints and they have been forwarded to CBI to receive results of his background check. Ms. Smith did not need to submit fingerprints as she only has 9% ownership. The application is complete and available for review. They currently have a temporary license to continue operation until the approval of the transfer.

**Cost:**

There is no cost to the City to transfer this license. The applicant has paid the \$1525.00 transfer fee to the State, the City's fee of \$200 as well as the City's \$500 liquor occupation tax for a tavern liquor license,

**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 the application and issue the State license.

**COLORADO LIQUOR  
 RETAIL LICENSE APPLICATION**

NEW LICENSE     TRANSFER OF OWNERSHIP     LICENSE RENEWAL

- ALL ANSWERS MUST BE PRINTED IN BLACK INK OR TYPEWRITTEN
- APPLICANT MUST CHECK THE APPROPRIATE BOX(ES)
- LOCAL LICENSE FEE \$ \_\_\_\_\_
- APPLICANT SHOULD OBTAIN A COPY OF THE COLORADO LIQUOR AND BEER CODE (Call 303-370-2165)

1. Applicant is applying as a  
 Corporation     Individual  
 Partnership (includes Limited Liability and Husband and Wife Partnerships)     Limited Liability Company  
 Association or Other

2. Applicant If an LLC, name of LLC; if partnership, at least 2 partner's names; if corporation, name of corporation    Fein Number  
 K&L Enterprises, LLC    46-3395320

2a. Trade Name of Establishment (DBA)    State Sales Tax No.    Business Telephone  
 Throttle and Spur Saloon    29918481    970-874-3130

3. Address of Premises (specify exact location of premises)  
 1410 Valley View Drive #190

City    County    State    ZIP Code  
 Delta    Delta    Co    81416

4. Mailing Address (Number and Street)    City or Town    State    ZIP Code  
 236 S. 3rd st. #292    Montrose    Co    81401

5. If the premises currently have a liquor or beer license, you MUST answer the following questions:

Present Trade Name of Establishment (DBA)    Present State License No.    Present Class of License    Present Expiration Date  
 Sports Center Lounge    15635620000    Tavern(city)    1/3/14

LIAB	SECTION A	NONREFUNDABLE APPLICATION FEES	LIAB	SECTION B (CONT.)	LIQUOR LICENSE FEES
2300	<input type="checkbox"/> Application Fee for New License	\$1,025.00	1985	<input type="checkbox"/> Resort Complex License (City)	\$500.00
2302	<input type="checkbox"/> Application Fee for New License - w/Concurrent Review	\$1,125.00	1986	<input type="checkbox"/> Resort Complex License (County)	\$500.00
2310	<input checked="" type="checkbox"/> Application Fee for Transfer	\$1,025.00	1988	<input type="checkbox"/> Add Related Facility to Resort Complex	\$ 75.00 X _____ Total _____
			1990	<input type="checkbox"/> Club License (City)	\$308.75
			1991	<input type="checkbox"/> Club License (County)	\$308.75
			2010	<input checked="" type="checkbox"/> Tavern License (City)	\$500.00
			2011	<input type="checkbox"/> Tavern License (County)	\$500.00
			2012	<input type="checkbox"/> Manager Registration - Tavern	\$ 75.00
			2020	<input type="checkbox"/> Arts License (City)	\$308.75
			2021	<input type="checkbox"/> Arts License (County)	\$308.75
			2030	<input type="checkbox"/> Racetrack License (City)	\$500.00
			2031	<input type="checkbox"/> Racetrack License (County)	\$500.00
			2040	<input type="checkbox"/> Optional Premises License (City)	\$500.00
			2041	<input type="checkbox"/> Optional Premises License (County)	\$500.00
			2045	<input type="checkbox"/> Vintners Restaurant License (City)	\$750.00
			2046	<input type="checkbox"/> Vintners Restaurant License (County)	\$750.00
			2220	<input type="checkbox"/> Add Optional Premises to H & R	\$100.00 X _____ Total _____
			2370	<input type="checkbox"/> Master File Location Fee	\$ 25.00 X _____ Total _____
			2375	<input type="checkbox"/> Master File Background	\$250.00 X _____ Total _____

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

LIABILITY INFORMATION					
County	City	Industry Type	License Account Number	Liability Date	License Issued Through (Expiration Date)
				FROM	TO
State -750 (999)	City 2180-100 (999)	County 2190-100 (999)	Managers Reg -750 (999)		
Cash Fund New License 2300-100 (999)				Cash Fund Transfer License 2310-100 (999)	
				<b>TOTAL</b>	
				<b>\$</b>	

6. Is the applicant (including any of the partners, if a partnership; members or manager if a limited liability company; or officers, stockholders or directors if a corporation) or manager under the age of twenty-one years? Yes No

7. Has the applicant (including any of the partners, if a partnership; members or manager if a limited liability company; or officers, stockholders or directors if a corporation) or manager ever (in Colorado or any other state);  
 (a) been denied an alcohol beverage license?    
 (b) had an alcohol beverage license suspended or revoked?    
 (c) had interest in another entity that had an alcohol beverage license suspended or revoked?    
 If you answered yes to 7a, b or c, explain in detail on a separate sheet.

8. Has a liquor license application (same license class), that was located within 500 feet of the proposed premises, been denied within the preceding two years? If "yes," explain in detail.

9. Are the premises to be licensed within 500 feet of any public or private school that meets compulsory education requirements of Colorado law, or the principal campus of any college, university or seminary?

10. Has a liquor or beer license ever been issued to the applicant (including any of the partners, if a partnership; members or manager if a limited liability company; or officers, stockholders or directors if a corporation)? If yes, identify the name of the business and list any current or former financial interest in said business including any loans to or from a licensee.

11. Does the Applicant, as listed on line 2 of this application, have legal possession of the premises by virtue of ownership, lease or other arrangement?  
 Ownership  Lease  Other (Explain in Detail)

a. If leased, list name of landlord and tenant, and date of expiration, EXACTLY as they appear on the lease:

Landlord	Tenant	Expires
Corrigan Enterprises LLLP	Kenneth H. McClain	8/31/2017

Attach a diagram and outline or designate the area to be licensed (including dimensions) which shows the bars, brewery, walls, partitions, entrances, exits and what each room shall be utilized for in this business. This diagram should be no larger than 8 1/2" X 11". (Doesn't have to be to scale)

12. Who, besides the owners listed in this application (including persons, firms, partnerships, corporations, limited liability companies), will loan or give money, inventory, furniture or equipment to or for use in this business; or who will receive money from this business. Attach a separate sheet if necessary.

NAME	DATE OF BIRTH	FEIN OR SSN	INTEREST
N/A			

Attach copies of all notes and security instruments, and any written agreement, or details of any oral agreement, by which any person (including partnerships, corporations, limited liability companies, etc.) will share in the profit or gross proceeds of this establishment, and any agreement relating to the business which is contingent or conditional in any way by volume, profit, sales, giving of advice or consultation.

13. **Optional Premises or Hotel and Restaurant Licenses with Optional Premises** Yes No  
 Has a local ordinance or resolution authorizing optional premises been adopted?    
 Number of separate Optional Premises areas requested. \_\_\_\_\_ (See License Fee Chart)

14. **Liquor Licensed Drug Store** applicants, answer the following: Yes No  
 (a) Does the applicant for a Liquor Licensed Drug Store have a license issued by the Colorado Board of Pharmacy? COPY MUST BE ATTACHED.

15. **Club Liquor License** applicants answer the following and attach: Yes No  
 (a) Is the applicant organization operated solely for a national, social, fraternal, patriotic, political or athletic purpose and not for pecuniary gain?    
 (b) Is the applicant organization a regularly chartered branch, lodge or chapter of a national organization which is operated solely for the object of a patriotic or fraternal organization or society, but not for pecuniary gain?    
 (c) How long has the club been incorporated? (Three years required) \_\_\_\_\_ (d) Has applicant occupied an establishment for three years that was operated solely for the reasons stated above?

16. **Brew-Pub License or Vintner Restaurant Applicants** answer the following: Yes No  
 (a) Has the applicant received or applied for a Federal Permit? (Copy of permit or application must be attached)

17a. Name of Manager (for all on-premises applicants) Kenneth McClain (If this is an application for a Hotel, Restaurant or Tavern License, the manager must also submit an Individual History Record (DR 8404-I). )

17b. Does this manager act as the manager of, or have a financial interest in, any other liquor licensed establishment in the State of Colorado? If yes, provide name, type of license and account number. Yes No

18. **Tax Distraint Information.** Does the applicant or any other person listed on this application and including its partners, officers, directors, stockholders, members (LLC) or managing members (LLC) and any other persons with a 10% or greater financial interest in the applicant currently have an outstanding tax distraint issued to them by the Colorado Department of Revenue? Yes No  
   
 If yes, provide an explanation and include copies of any payment agreements.

19. If applicant is a corporation, partnership, association or limited liability company, applicant must list ALL OFFICERS, DIRECTORS, GENERAL PARTNERS, AND MANAGING MEMBERS. In addition applicant must list any stockholders, partners, or members with OWNERSHIP OF 10% OR MORE IN THE APPLICANT. ALL PERSONS LISTED BELOW must also attach form DR 8404-I (Individual History record), and submit finger print cards to their local licensing authority.

NAME	HOME ADDRESS, CITY & STATE	DOB	POSITION	% OWNED*
Kenneth McClain	1525 Gold Creek Dr. Montrose Co.	[REDACTED]	Owner	91
Laura Smith	1525 Gold Creek Dr. Montrose Co.	[REDACTED]	Treasurer	9

\*If total ownership percentage disclosed here does not total 100% applicant must check this box

Applicant affirms that no individual other than these disclosed herein, owns 10% or more of the applicant

**Additional Documents to be submitted by type of entity**

- CORPORATION     Cert. of Incorp.     Cert. of Good Standing (if more than 2 yrs. old)     Cert. of Auth. (if a foreign corp.)  
 PARTNERSHIP     Partnership Agreement (General or Limited)     Husband and Wife partnership (no written agreement)  
 LIMITED LIABILITY COMPANY     Articles of Organization     Cert. of Authority (if foreign company)     Operating Agrmt.  
 ASSOCIATION OR OTHER    Attach copy of agreements creating association or relationship between the parties

Registered Agent (if applicable)

Address for Service

**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. I also acknowledge that it is my responsibility and the responsibility of my agents and employees to comply with the provisions of the Colorado Liquor or Beer Code which affect my license.*

Authorized Signature

*Kenneth McClain*

Title

*owner*

Date

*8/29/13*

**REPORT AND APPROVAL OF LOCAL LICENSING AUTHORITY (CITY/COUNTY)**

Date application filed with local authority

*August 30, 2013*

Date of local authority hearing (for new license applicants; cannot be less than 30 days from date of application 12-47-311 (1) C.R.S.

**THE LOCAL LICENSING AUTHORITY HEREBY AFFIRMS:**

That each person required to file DR 8404-I (Individual History Record) has:

Yes No

- Been fingerprinted .....  Yes  No  
 Been subject to background investigation, including NCIC/CCIC check for outstanding warrants .....  Yes  No

That the local authority has conducted, or intends to conduct, an inspection of the proposed premises to ensure that the applicant is in compliance with, and aware of, liquor code provisions affecting their class of license .....  Yes  No

(Check One)

- Date of Inspection or Anticipated Date \_\_\_\_\_  
 Upon approval of state licensing authority.

The foregoing application has been examined; and the premises, business to be conducted, and character of the applicant are satisfactory. We do report that such license, if granted, will meet the reasonable requirements of the neighborhood and the desires of the adult inhabitants, and will comply with the provisions of Title 12, Article 46 or 47, C.R.S. **THEREFORE, THIS APPLICATION IS APPROVED.**

Local Licensing Authority for

Telephone Number

- TOWN, CITY  
 COUNTY

Signature

Title

Date

Signature (attest)

Title

Date

# MEMO

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To: City Council  
From: Jolene E. Nelson, City Clerk  
Date: September 12, 2013  
Subject: Hotel/Restaurant Liquor License Renewal for Gabriela's Family Mexican Restaurant



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*Office of the City Clerk*

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**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, 2013.

**Cost:**

There is no cost to the City to renew the license. The applicant has paid the \$500 renewal fee to the State, the City renewal fee of \$150 as well as the City liquor occupation tax of \$400.

**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**

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

Fees Due	
Renewal Fee	\$500.00
Storage Permit \$100 x _____	_____
Optional Premise \$100 x _____	_____
Related Resort \$75 x _____	_____
<b>Amount Due/Paid</b>	

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 <b>GABRIELA'S INC</b>		DBA <b>GABRIELA'S FAMILY MEXICAN RESTAURANT</b>		
Liquor License # <b>42857270000</b>	License Type <b>Hotel &amp; Restaurant (city)</b>	Sales Tax License # <b>42857270000</b>	Expiration Date <b>10/12/2013</b>	Due Date <b>8/28/2013</b>
Street Address <b>420 MAIN ST DELTA CO 81416-1825</b>				Phone Number <b>(970) 874 0309</b>
Mailing Address <b>708 S JUNCTION AVE MONTROSE CO 81401-4416</b>				
Operating Manager <b>Gabriela</b>		Home Address <b>708 S Junction Ave Montrose, CO 81401</b>		Phone Number <b>970-874-0309</b>

- 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.

**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 <b>Gabriela Torres De Medrano</b>	Title <b>X President</b>
Signature <i>[Signature]</i>	Date <b>X 9/03/13</b>

**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



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

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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 liquor violations in the past twelve months.

Remarks:

Police Department recommendation:

Recommend liquor license renewal

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Robert Thomas, Chief of Police

# MEMO

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To: City Council  
From: Justin Clifton, City Manager  
Date: September 13, 2013  
Subject: Stable rental at Horse Country Arena



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*Office of the City Manager*

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## **Recommendation:**

Staff recommends support from Council to eliminate long term stable boarding at the Horse Country Arena.

## **Background:**

For some time staff has discussed cost and utilization of the Horse Country Arena. The City has operated the stables for many years and has various renters from time to time. Recently, a citizen submitted a complaint after realizing the stables included more than one underfed horse and an unauthorized dog. The owner of the horses was given a second warning regarding the condition of the animals and potential unauthorized use. This situation causes staff to take a greater look at the facility and recommend elimination of long term boarding.

Long term rentals are problematic for at least two reasons. First, the facility does not include pasture or appropriate room to exercise horses. Long term rental without such facilities can be considered cruel to animals. History suggests that horses are in fact left in the facility with little to no exercise and are often in less than ideal condition. Similarly, staff does not dedicate significant resources to monitoring the facility so mistreatment of animals can go unnoticed. Second, stable rentals of this sort are provided by private market facilities in the County. Operating a facility subsidized with public money undermines private enterprise that provides a similar service.

Staff is open to allowing short term rentals of stables as there seems to be a shortage of those types of facilities. Staff could limit rentals to 30 days, which would accommodate longer transitional needs associated with horse rescue and relocation/ purchase, or limit rentals even further (such as 7 days), which would only address special events and animals in transit.

## **Cost:**

The City budgets about \$3,500 per year in rental income. It is unclear how much income would be lost by limiting rentals in this way but there is some opportunity to reduce expenses at the Arena or reallocate resources to other areas and offset the loss.

**Alignment With Strategic Planning:**

There is no mandate that staff is aware of that requires the City to rent stables. It is also unclear if there would be public opposition or support for the change. However, offering short term rentals continues to fulfill a need while leaving long term boarding to private entities. These kinds of changes are in line with the performance/priority based budgeting management practices currently in place.

**Actions To Be Taken if Approved:**

If Council approves staff's recommendation, internal policies will be created to allow only for short term rentals. Adequate notice will be given to current renters to find other boarding accommodations.

**Council Bill #6, 2013**

**AN ORDINANCE OF THE CITY OF DELTA, COLORADO,  
AMENDING TITLE 5 CHAPTER 5.24 OF THE DELTA  
MUNICIPAL CODE.**

WHEREAS, in 2013 the City of Delta was approached by a commercial vendor asking the City to reconsider its ordinance prohibiting any door to door solicitation upon private residences; and

WHEREAS, staff has reviewed the status of solicitation and peddling regulations statewide and consulted with other jurisdictions that have enacted changes to their regulations; and

WHEREAS, staff determined that there are effective means of regulating the activity that avoid the need for a total prohibition but still minimize the potential for abuse, conflict, and disruption to the general public; and

WHEREAS, after presenting its findings, City Council has given direction to staff to draft an ordinance establishing a regulated system for door to door solicitation.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DELTA, COLORADO, that Title 5, Chapter 5.24 of the Delta Municipal Code is hereby amended to read as follows:

Chapter 5.24

Peddler and Solicitors

Sections:

- 5.24.010 Definition
- 5.24.020 Solicitation Prohibited
- 5.24.030 Permitted Hours
- 5.24.040 Permit and Badge Required
- 5.24.050 Permit Revocation
- 5.24.060 Permit Denial and Revocation
- 5.24.070 Appeals

5.24.010 Definition. For the purpose of this Chapter, the words contained herein will have the following definitions:

*Peddlers or Solicitors:* means any person or persons engaged in commercial solicitation or promotion any event or activity where products or services will be sold.

*Commercial door to door Solicitation:* means any act by a peddler or solicitor to enter upon private property without invitation in order to offer for sale or attempt to sell any product or service for the primary purpose financial gain.

5.25.020 Solicitation Prohibited. No solicitor or peddler shall enter or remain upon any private property without invitation if a "No Solicitation" or "No Trespassing" sign is present at or near the entrance of said property, or if the solicitor or peddler is asked to leave the property.

5.24.030 Permitted Hours. No solicitor or peddler shall conduct commercial door to door solicitation outside the hours of 9 AM to 6 PM, or dusk as determined by the National Weather Service, whichever is later.

5.24.040 Permit and Badge Required.

A. All peddlers and solicitors shall be required to complete an application, register all personnel engaged in peddling or soliciting within the City and obtain a permit with the City and pay a \$200 permit fee.

B. All permit holders shall be required to obtain identification badges for all persons who will engage in commercial door to door solicitation on behalf of the permit holder. All permit holders will pay a \$25 fee for each identification badge issued. It shall be the sole responsibility of the permit holder to:

(1) Provide a copy of the permit to each person authorized to engage in commercial door to door solicitation under the permit.

(2) Ensure that each person authorized to conduct commercial door to door solicitation under the permit complies with the terms and conditions of this Chapter.

(3) Submit a Colorado Bureau of Investigations criminal background report for all persons authorized conduct commercial door to door solicitation under the permit dated not more than 60 days from the date of submittal.

(4) Instruct and require all peddlers or solicitors to prominently display the identification badge at all times while engaged in solicitation activities within the City.

5.24.050 Persons Prohibited. No person or persons shall be eligible for a permit or identification badge if:

A. Such person has been released within the ten (10) years immediately preceding the application from any form of incarceration court-ordered supervision, including a deferred sentence, resulting from conviction of any felony or Class 1 misdemeanor under the laws of the State of Colorado or an equivalent offense under any federal, state, county or municipal law; or

B. Any permit holder or person authorized under the permit for commercial door to door solicitation has been found by the City to have engaged in any aggressive and/or deceptive tactics that is found to be a menace and/or detrimental to the health and welfare of the public.

C. A corporation or individual operating as a d/b/a seeking a permit is not registered and in good standing with the Colorado Secretary of State.

5.24.060 Permit Denial and Revocation. A permit may be denied or revoked if:

A. A permit holder fails to comply with the terms of this Chapter.

B. Any information or representation on a permit application form is false, incorrect, or not promptly updated due to changed circumstance.

c. Anyone authorized to conduct commercial door to door solicitation under the permit is non-compliant with sections 5.24.050 of this Chapter.

D. Permit holder fails to procure all other applicable permits and licenses including a transient merchant and sales and use tax licenses from the City and/or State.

5.24.070 Appeals. All appeals for denial or revocation of a permit shall be heard by the City Manager. The City Manager's ruling on appeal shall be final.

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**

