



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 5, 2014
7:00 p.m.**

- A. Pledge of Allegiance**
- B. Changes to the Agenda**
- C. Minutes**
- D. Citizen Comments**
- E. Approval of Intergovernmental Agreement with Delta County Clerk & Recorder**
- F. Council Bill #3, 2014; Second and Final Reading
Emergency Management**
- G. City Attorney Comments**
- H. City Manager Comments**
- I. 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, and Mary Cooper along with City Manager Justin Clifton and City Attorney David Smith. Absent was Councilmember Ray Penick. 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 Raley and seconded by Councilmember Jurca to approve the minutes of the July 1, 2014 regular meeting as submitted by the Clerk. All in favor, motion carried.

Citizen Comments

There were none.

Hotel and Restaurant Liquor License Renewals:**Delta El Tapatio, Inc. dba El Tapatio and MAA Delta Sundance Hospitality, LLC Days Inn Sundance**

The Clerk explained that El Tapatio and Days Inn Sundance have submitted their annual hotel and restaurant liquor license renewals. The applications are complete and all fees have been paid. The police department is recommending renewal on both applications.

It was moved by Councilmember Cooper and seconded by Councilmember Raley to approve the hotel and restaurant liquor license renewals for El Tapatio and Days Inn Sundance. All in favor, motion carried.

3.2% Beer Off Premises License Renewals:**Walmart Stores, Inc. dba Walmart #5458 and Dillon Companies, Inc. dba City Market #4**

The Clerk reported that Walmart and City Market have submitted their annual 3.2% off premises license renewals. The applications are complete and all fees have been paid. The police department is recommending renewal on both applications.

It was moved by Councilmember Jurca and seconded by Councilmember Cooper to approve the 3.2% off premises liquor licenses for Walmart and City Market. All in favor, motion carried.

Regular Meeting, Delta City Council, July 15, 2014 (cont.)

Approval Hamon COR 25 – Contract Extensions for Hamon

City Manager Justin Clifton stated that this is a change order that staff is recommending approval for the contract with Hamon. This agreement is consistent with the proposal Council reviewed approximately six weeks ago. The proposal was a little vague in some areas with regards to suspension dates, when work would commence and the remaining schedule. Staff wanted to be specific with regard to release of any retainer held, commencement of warranty dates and obligation to complete work. Mr. Clifton explained that in some of those cases it involves two or three parties. This change order enables commencement of work. He summarized the work that will begin immediately, if the change order is approved.

Manager Clifton stated that all agreements have been signed and executed with Union Pacific. Staff anticipates closing to take place towards the end of August or first part of September, which will enable the schedule to be preserved within the amount budgeted and will be on track to complete the project this year.

Councilmember Raley questioned how confident the staff is that the project will be completed this year.

Manager Clifton stated that most of the delays were a result of negotiating the property exchange with the railroad. There are always some uncertainties that may arise. He explained how some of the uncertainties can affect the timing of the project.

There was discussion regarding the season period of the railroad tracks.

Mayor Sisson questioned if the project will be completed by December 20th, 2014.

Manager Clifton stated that it is a tight schedule; however, the schedule has some built in fluctuations that contemplate finishing the project this year. He also stated that there is some paving that is schedule to be completed at the end of the year so weather may have an effect on timing.

It was moved by Councilmember Cooper and seconded by Councilmember Raley to approve the Hamon's COR 25 contract extension. All in favor, motion carried.

Formal Action for Participation in the November 4, 2014 Coordinated Election

The Clerk explained that per CRS 1-7-116(5) and 1-1-106(5) the City is required to notify the county clerk and recorder within 100 days of the election that City is going participate in the election. At this time, staff is requesting Council take formal action to participate in the November 4, 2014 election and authorize the City Clerk to notify the County Clerk in writing.

It was moved by Councilmember Jurca and seconded by Councilmember Cooper to authorize the City Clerk to notify the Delta County Clerk and Recorder that the City of Delta wishes to participate in the November 4, 2014 Coordinated Election. All in favor, motion carried.

Regular Meeting, Delta City Council, July 15, 2014 (cont.)

Light Pole Paint Color

Manager Clifton stated that the light poles need to be painted. If Council would like to change the color now is the time. He presented a couple different options.

There was a consensus amongst Council to stay with the same color that is currently being used for the light poles.

Council Bill #3, 2014; First Reading Emergency Management

Council Bill #3, 2014

AN ORDINANCE OF THE CITY OF DELTA, COLORADO,
REGARDING DISASTER EMERGENCY REGULATIONS OF THE
DELTA MUNICIPAL CODE

was read by the Clerk.

Manager Clifton stated that this item was presented to Council at a work session. The City Attorney made a few changes regarding statutory references that were no longer applicable.

Councilmember Cooper commented on the recent disasters and stated this is a good thing to have in place.

City Attorney David Smith stated that under the penalties there is a statement that needs to be corrected to read "up to \$1,000" and "up to one year in jail".

Manager Clifton recognized Chief Robert Thomas in his efforts to have the City prepared in an event of an emergency.

It was moved by Councilmember Jurca and seconded by Councilmember Cooper to adopt Council Bill #3, 2014 on first reading with said amendments. Roll call vote: Councilmembers Cooper, aye, Raley, aye, Jurca, aye and Sisson, aye. Motion carried.

City Attorney Comments

There were none.

City Manager Comments

Manager Clifton stated that staff would like to schedule a couple of public meetings to educate citizens on the two potential ballot questions. He will meet with the task force and plan to schedule two meetings in August. Those meetings will be separate from the regular Council meetings that will be setting the ballot language.

Manager Clifton stated that he will send out information on the upcoming Community Revitalization Program meetings.

Regular Meeting, Delta City Council, July 15, 2014 (cont.)

Councilmember Comments

Councilmember Cooper commented on the recent CML Executive Board meeting she attended. She also complimented staff on the great work with the flowers.

Councilmember Raley thanked Dave Smith for his tenor with the City.

Mayor Sisson reminded everyone about the upcoming Deltarado Days.

The meeting was adjourned at 7:25 p.m.

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

Item D:

Citizen Comments



MEMO

To: City Council
From: Jolene E. Nelson, City Clerk
Date: August 5, 2014
Subject: Intergovernmental Agreement for November 4, 2014
Coordinated Election



Office of the City Clerk

Recommendation:

Staff recommends that City Council authorize the City Clerk to sign the Intergovernmental Agreement with the Delta County Clerk and Recorder for the November 4, 2014 Coordinated Election.

Background:

The Intergovernmental Agreement with the Delta County Clerk and Recorder for the conduct of the election is now being presented for approval. This form of the IGA has been used for the past few elections. There are no changes since the last election.

Cost:

The estimated cost of the election is \$10,000.00.

Alignment With Strategic Planning:

Per CRS 1-7-116(2) “The political subdivision for which the county clerk and recorder will conduct the coordinated election shall enter into an agreement with the county clerk and recorder for the county or counties in which the political subdivision is located concerning the conduct of the coordinated election.”

Actions To Be Taken if Approved:

The City Clerk will sign the IGA with the Delta County Clerk and Recorder.

INTERGOVERNMENTAL AGREEMENT

This Agreement between the County Clerk and Recorder of Delta County (hereafter Clerk) and the City of Delta (hereafter City) is to specify terms and procedures for the conduct of the 2014 Election for the City in the 2014 General Election which is scheduled for November 4, 2014.

1. **PURPOSE:** Pursuant to the terms of this agreement the Clerk and the City agree to the scheduling of a General Election on November 4, 2014 by Mail Ballot. Such General Election may involve more than one political subdivision or special district with overlapping boundaries and the Clerk shall serve as the Election Official for all political subdivisions and special districts involved in this election. This election shall be under the provisions of Title 1 of the Colorado Revised Statutes and Colorado Secretary of State Election Rules.
2. **VOTER SERVICE AND POLLING LOCATIONS:** Voter Service and Polling centers Locations are available for voters to register to vote, change address, request ballots or replacement ballots, vote and/or deposit mail ballots. The following locations and dates are as follows:

VOTER SERVICE AND POLLING CENTER LOCATIONS

DELTA COUNTY CLERK AND RECORDER'S OFFICE
501 PALMER ST. SUITE 211
DELTA, CO 81416

NORTH FORK ANNEX CLERK'S OFFICE
196 W. HOTCHKISS AVE.
HOTCHKISS, CO 81419

Starting October 20, 2014
Hours 8:30 a.m. to 4:30 p.m. Monday – Friday
9:00 a.m. to 1:00 p.m. Saturday November 1, 2014
7:00 a.m. to 7:00 p.m. Election Day November 4, 2014

VOTER SERVICE AND POLLING CENTER LOCATION ELECTION DAY ONLY

ORCHARD CITY TOWN HALL
9661 2100 RD.
AUSTIN CO 81410
7:00 a.m. to 7:00 p.m. Election Day November 4, 2014

DROP OFF ONLY LOCATIONS

24 HOUR DROP OFF LOCATION
DELTA COUNTY COURTHOUSE
501 PALMER ST.
DELTA CO 81416
(On front steps of Courthouse)

TOWN OF PAONIA
214 Grand Ave
Paonia Co 81416
Starting October 20, 2014
Hours 8:30 a.m. to 4:30 p.m. Monday – Friday
7:00 a.m. to 7:00 p.m. Election Day November 4, 2014

DROP OFF LOCATIONS OPEN ELECTION DAY ONLY

Open November 4, 2014 Election Day only
7:00 a.m. – 7:00 p.m.

Cedaredge Community Center
140 SW 2nd St.
Cedaredge Co 81416

Town of Crawford (Council Room)
425 Highway 92
Crawford Co 81419

3. **ELECTION JUDGES:** All Election Judges shall be the responsibility of the Clerk.
4. **LEGAL NOTICES:** All legal notices concerning the General Election which are to be published prior to certification of the ballot content to the Clerk shall be the responsibility of the City. A copy of such published legal notice(s) shall be submitted to the Clerk for her records.

Publication of legal notices concerning the General Election, which are required to be published after certification of the ballot contents to the Clerk, shall be the responsibility of the Clerk.
5. **BALLOT CONTENT:** In accordance with Colorado law, the ballot content must be certified to the Clerk by the City, in its exact and final form, no later than 4:30 p.m. on September 5,

2014. Such ballot content must be delivered to the Clerk at the Delta County Courthouse, 501 Palmer Street, Suite 211, Delta, CO.

6. **TESTING AND AUDITING:** Conduct of the required tests and audits of the voting system prior to and after the Election pursuant to C.R.S. 1-7-509 and SOS Election Rule 11 shall be the responsibility of the Clerk.

7. **TABOR NOTICES:** City's Election Official shall follow the 2014 Tabor notice Calendar with regard to the filing dates, to be filed with the Clerk. The Clerk will be responsible for the mailing of Tabor notices.

- September 19, 2014 is the last day to file pro/con comments pertaining to local ballot issues with the designated election official in order to be included in the ballot issue notice
- September 23, 2014 is the last day for the designated election official to deliver ballot issue notices to the Clerk.
- October 3, 2014 is the last day to mail notice of election for ballot issues.

8. **CONDUCT OF THE NOVEMBER 4, 2014 GENERAL ELECTION.** The Clerk shall be responsible for preparing and printing the ballots, as well as the preparation of the ballot for the Electronic Voting Equipment used by the Delta County Clerk. The Clerk shall also be responsible for coordinating and conducting the actual election.

9. **TABULATION OF BALLOTS.** All processes relating to the tabulation of ballots shall be the responsibility of the Clerk. An unofficial cumulative total of votes will be provided to the City, upon completion of the counting of all ballots.

10. **CANVASS OF VOTES.** The canvass of votes will be the responsibility of the Clerk. Official results of the canvass will be provided to all political subdivisions and special districts participating in the General Election no later than November 21, 2014

11. **ALLOCATION OF COST OF ELECTION.** The Clerk shall determine the cost allocation for each political subdivision and special district participating in the General Election. The City shall reimburse the Clerk for its fair share of the costs, including but not limited to, publication costs, publishing costs, printing costs, mailing costs, judges' fees, voter location/drop off fees, mileage and long distance expense. Such reimbursement shall be made to the Clerk within thirty days from receipt of billing from the Clerk.

12. **CANCELLATION OF ELECTION:** No later than twenty-five days before an election conducted as a coordinated election in November a governing body may by resolution withdraw one or more ballot issues or ballot questions from the ballot. The ballot issues and ballot questions shall be deemed to have not been submitted and votes cast on the ballot issues and ballot questions shall either not be counted or shall be deemed invalid by action of the governing body. Notice of such cancellation shall be published in order to inform the electors. Any expenditure already incurred shall be the responsibility of the City in the event of cancellation.

13. **INDEMNIFICATION.** The City agrees to indemnify, defend and hold harmless the Clerk from any and all loss, costs, demands or actions, arising out of or related to any actions, error or omissions of the City in completing its responsibilities relating to the November 4, 2014, General Election.

DELTA COUNTY CLERK AND RECORDER

CITY OF DELTA

By _____

DATE _____

Title _____

DATE _____

THIS AGREEMENT MUST BE SIGNED AND RETURNED TO THE DELTA COUNTY CLERK AND RECORDER BY AUGUST 26, 2014.

Council Bill #3, 2014

AN ORDINANCE OF THE CITY OF DELTA, COLORADO,
REGARDING DISASTER EMERGENCY REGULATIONS OF
THE DELTA MUNICIPAL CODE

WHEREAS, the City Council of the City of Delta is aware that certain dangerous or catastrophic conditions potentially exist, such as an act of nature or man-made circumstances, that result in a disaster emergency;

WHEREAS, the City Council of the City of Delta acknowledges the necessity of adopting a plan for handling emergency situations; and

WHEREAS, an Emergency and Disaster Emergency ordinance has been developed to provide the Council and City Manager direction in order to protect life and mitigate property damage in the instance of a Disaster Emergency situation.

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

Section 1. The foregoing recitals are incorporated herein as findings of the City Council.

Section 2. The City Council hereby amends the Delta Municipal Code by the addition of a new Chapter 8.40 as follows:

Chapter 8.40
DISASTER EMERGENCY REGULATIONS

Sections:

- 8.40.010 Definitions.
- 8.40.020 Procedures.
- 8.40.030 Disaster Emergency Response Powers.
- 8.40.040 Compensation.
- 8.40.050 Line of Succession.
- 8.40.060 Conflicting Ordinances, Orders, Rules and Regulations Suspended
- 8.40.070 Violation of Regulations
- 8.40.080 Penalty
- 8.40.090 Applicability of State Law

8.40.010 Definitions.

1. Disaster Emergency: An occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural cause or cause of human origin, including but not limited to fire, flood, earthquake, wind, storm, wave action, hazardous substance incident, oil spill, or water contamination requiring action to avert danger or damage, volcanic activity, epidemic, air pollution, blight, drought, infestation, explosion, civil disturbance, hostile military or paramilitary action, or a condition of riot, insurrection, or invasion existing in the City.

2. Emergency: A serious situation or occurrence that happens unexpectedly and demands immediate action, or creates urgent need for action or assistance.

8.40.020 Procedures

A. Declaration of Disaster Emergency. The City Council shall have the power to declare through a resolution that a disaster emergency exists and resources for the emergency are at or beyond city capacity, or the threat of such event is imminent. If a quorum of the City Council cannot be formed, the Mayor shall have the authority to declare a disaster or emergency on a temporary basis until a quorum of Council can be seated.

B. Declaration in Writing. The resolution declaring a State of Disaster Emergency by the Council or Mayor shall be in writing and shall describe the nature of the emergency; the area threatened, the conditions which have brought it about, and the conditions that would remedy it in the opinion of Council based on the available information. The City Manager shall be responsible for publication and dissemination of information to the public and shall file the declaration with the City Clerk and forward a copy to the Colorado Division of Homeland Security and Emergency Management.

C. Effect of Declaration. The issuance of a declaration of a disaster emergency shall automatically empower the City Manager to exercise any and all of the emergency powers permitted by state and local law and as set forth in the resolution. The City Council shall convene to perform its legislative powers as the situation demands and shall receive reports through the City Manager and evaluate and enact policies and other incident support as required. In case of a disaster emergency requiring immediate action of the City Council to protect public health, safety, or welfare, the City Council may

convene an emergency meeting without any advance public notice or with such limited advance public notice as the Mayor or other presiding officer finds feasible in circumstances, with full compliance with the Charter requirements relating to notice to be achieved as soon as possible thereafter. Nothing in this Chapter shall abridge or curtail the powers of the City Council to properly and adequately respond to the emergency. A declaration of disaster emergency may grant the City Manager the authority to access emergency reserves, including reserves maintained pursuant to Section 5 of Article XX of the Colorado Constitution, and to request assistance from the Colorado Division of Homeland Security and Emergency Management.

D. Duration. A state of disaster emergency shall remain in effect until the Council or City Manager declares that the threat of danger has passed or that the disaster emergency conditions no longer exist. Notwithstanding the forgoing, a state of disaster emergency shall not be continued or renewed for a period in excess of seven days unless the City Council expressly approves a longer duration. The City Council may by motion terminate the state of disaster emergency at any time. Upon continuation or termination of a state of disaster emergency, the City Manager shall immediately issue and publish a notice affecting the same. Any declaration continuing or terminating a state of disaster emergency shall be filed with the City Clerk and a copy shall be forwarded to the Colorado Division of Homeland Security and Emergency Management.

8.40.030 Disaster Emergency Response Powers.

A. Upon the issuance of the declaration of disaster emergency and for as long as said declaration is in effect, the City Manager of this code shall have and may exercise any and all emergency powers granted by applicable state or local law subsequent to issuance of the disaster emergency declaration.

B. During the course of a declared disaster emergency a city employee or authorized agent may enter onto or upon private property if the employee or authorized agent has reasonable grounds to believe that an emergency situation exists and that an entry on private property is required in order to protect life or minimize an imminent threat to property.

C. During the course of a declared disaster emergency, the City Manager may, on behalf of the city, enter into reciprocal aid, mutual aid, joint powers agreements, intergovernmental assistance agreements or other contracts or plans with other governmental entities necessary for the protection of life and

property. Such agreements may include the furnishing or exchange of supplies, equipment, facilities, personnel and/or services.

D. During the course of a declaration disaster emergency, the City Manager may promulgate such regulations as the manager deems necessary, to protect life and property and preserve critical resources. These regulations shall be confirmed at the earliest practical time by the City Council, shall be circulated to the public, and shall be disseminated to the news media. These regulations may include, but shall not be limited to powers granted by applicable state or local law. Specifically, during the course of any declared emergency, the City Manager may:

1. Suspend the provisions of this code that prescribe conduct of city business, if strict compliance would in any way prevent, hinder, or delay necessary action in coping with the emergency.

2. Transfer, reassign or otherwise change the direction, personnel, or functions of city departments for the purpose of performing or facilitating emergency services.

3. Direct and compel evacuation of persons from any stricken or threatened area within the city if the City Manager deems the action necessary for the immediate preservation of life or property or other emergency mitigation, response, or recovery measures.

4. Prescribe routes, modes of transportation, and destinations in connection with an evacuation.

5. Control ingress to and egress from a disaster area, the movement of persons within the area, and the occupancy of premises therein.

6. Suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives, or combustibles with the city.

7. Make provision for the availability and use of temporary emergency housing.

8. Waive all provisions for competitive bidding and direct the purchase agent to purchase necessary supplies in the open market at not more than commercial prices.

9. Prohibit or restrict the movement of vehicles in order to facilitate the work of disaster response forces or to facilitate the mass movement of persons to or from critical areas within or without the city.

10. Declare a public curfew.

11. Close or regulate the business hours of any commercial establishment in the city when such closing or regulation is in the public interest.

12. Cause to be carried out such other reasonable measures or regulations as are necessary to preserve public peace, health, and safety.

E. During the course of a declared disaster emergency, the City Manager is authorized to exercise all powers permitted by the City Charter and state law to require emergency services of any city officer or employee and command the aid of as many citizens of the city as the manager deems necessary in the execution of the manager's duties. Such persons shall be entitled to all privileges, benefits, and immunities as are provided by state law for civil defense workers.

8.40.040 Compensation. Compensation for services or private property used by the city in responding to an emergency shall be compensated as specified by contract or as required by state law, subject to the principals and procedures set forth in C.R.S. 24-32-2111 and Articles 1 to 7 of Title 38 of the Colorado Revised Statutes.

8.40.050 Line of Succession.

A. If the Mayor is unable to perform the duties of the Mayor set forth in this Chapter, then the duties conferred upon the Mayor shall be performed in descending order, as follows: by the Mayor Pro-Tem, then by the City Council Member most senior in length of service, then by the City Council Member whose last name begins with a letter that is closest to the beginning of the alphabet.

B. The City Manager shall, at the start of each calendar year, publish and submit to City Council an order of succession of city officials who shall execute the duties and powers described in this Chapter for execution by the City Manager in the event that the City Manager is unavailable to manage a disaster emergency.

C. In any calendar year in which the City Manager fails to publish and submit such list to City Council, the line of succession of authority to manage a disaster emergency shall include those occupying the following positions (if applicable) in the following order:

1. The City Manager or Acting City Manager
2. The Deputy/Assistant City Manager
3. The last appointed Acting City Manager still employed with the City
4. The Community Development Director
5. The Director of Public Works

6. The Finance Director; or
7. The Chief of Police
8. In the event none of the above noted people are available to serve, the next highest ranking person within each of the various departments, in the line of succession as indicated above, shall serve.

D. However, the succession of authority provided in this section shall always be subject to the power of the City Council to determine, by appropriate motion, that any Council Member or staff member shall take responsibility for the management of a disaster emergency.

8.40.060. Conflicting Ordinance, Orders, Rules and Regulations Suspended. Any ordinances, orders, rules or regulations promulgated during a declared disaster emergency shall take precedence over existing ordinances, orders, rules and regulations if a conflict arises during the state of disaster emergency.

8.40.070 Violation of Regulations. It shall be unlawful for any person to violate any of the provisions of this Chapter or of the ordinances, orders, rules or regulations issued pursuant to the authority contained in this Chapter, or to willfully obstruct, hinder, or delay any person in the exercise of any duty or authority pursuant to the provisions of this chapter. Police, code enforcement and such other law enforcement and peace officers as may be authorized by the City Manager shall be authorized to enforce the ordinances, orders, rules and regulations made or issued pursuant to this Chapter.

8.40.080 Penalty. Any person convicted of a violation of any section of this Chapter or any ordinance, order, rule or regulation issued pursuant to the authority contained herein shall be punished by a fine of up to \$1000.00 or by imprisonment of up to one year in jail or by both such fine and imprisonment.

8.40.090 Applicability of State Law. The Colorado Disaster Emergency Act, C.R.S. § 24-33.5-701 *et seq.*, as amended, shall govern the implementation of the duties, powers, immunities and other provisions set forth in this Chapter to the extent applicable.

The State of Colorado Emergency Relief statute (C.R.S. 24.33.5-1102) allows the Governor to provide the distribution of medicine, food, and supplies.

The State of Colorado Grants to Individuals statute (C.R.S. 24-33.5-1106) authorizes the Governor to accept a grant from the federal government to provide financial assistance to an individual or family in a single major disaster declared by the President.

Section 3. All other ordinance or portions thereof inconsistent or conflicting with this ordinance or any portions hereof are hereby repealed to the extent of such inconsistency or conflict.

ADOPTED ON FIRST READING AND ORDERED PUBLISHED this ____ day of _____, 2014.

Mayor

ATTEST:

City Clerk

ADOPTED ON SECOND AND FINAL READING AND ORDERED PUBLISHED this ____ day of _____, 2014.

Mayor

ATTEST:

City Clerk

Attorney Comments



City Manager Comments



Councilmember Comments

