



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 19, 2014
7:00 p.m.**

- A. Pledge of Allegiance**
- B. Changes to the Agenda**
- C. Minutes**
- D. Citizen Comments**
- E. Public Hearing – Special Events Permit; Knights of Columbus**
- F. Snack Bar Contract for Bill Heddles Recreation Center**
- G. Public Hearing: Discussion Regarding Ballot Language/Draft Resolution**
- H. City Attorney Comments**
- I. City Manager Comments**
- J. 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 Raley and seconded by Councilmember Jurca to approve the minutes of the July 15, 2014 regular meeting as submitted by the Clerk. All in favor, motion carried.

Citizen Comments

There were none.

Approval of Intergovernmental Agreement with Delta County Clerk & Recorder

The Clerk stated that the Intergovernmental Agreement (IGA) for the upcoming election is being presented for approval. There are no changes from the last IGA that was used with a coordinated election. She reported that the estimated cost for the election is \$10,000.

It was moved by Councilmember Cooper and seconded by Councilmember Penick to approve the Intergovernmental Agreement with the Delta County Clerk & Recorder and authorize the City Clerk to sign said document. All in favor, motion carried.

**Ordinance #3, 2014; Second and Final Reading
Emergency Management**

Ordinance #3, 2014

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

was introduced as Council Bill #3, 2014 and read by the Clerk.

It was moved by Councilmember Jurca and seconded by Councilmember Cooper to adopt Council Bill #3, 2014 on second and final reading. Roll call vote: Councilmembers Cooper, aye; Penick, aye; Jurca, aye, Raley, aye and Sisson, aye. Council Bill #3, 2014 was adopted on second and final reading as Ordinance #3, 2014.

Item D:

Citizen Comments



MEMO

To: Mayor and City Council
From: Jolene E. Nelson, City Clerk
Date: August 19, 2014
Subject: Knights of Columbus Special Events Permit



Office of the City Clerk

Recommendation:

Staff recommends approving the application for Special Events Liquor Permit for the Knights of Columbus Grand Mesa Council 02731.

Background:

The Knights of Columbus has submitted an application for Special Events Liquor Permit for their event to be held at Bill Heddles Recreation Center. The application is for the NRA Foundation's banquet being held on October 3, 2014. The application specifies that they plan to sell alcoholic beverages from 5:00 p.m. to 11:00 p.m.

The applications are complete and the fees, \$35 to the City, and \$25 to the State, 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 them to the State, who will review them 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 type="checkbox"/> SOCIAL | <input type="checkbox"/> ATHLETIC | <input type="checkbox"/> PHILANTHROPIC INSTITUTION |
| <input checked="" 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>Knights of Columbus Grand Mesa Council 22231</i>	State Sales Tax Number (Required) <i>02778875-0000</i>
---	---

2. MAILING ADDRESS OF ORGANIZATION OR POLITICAL CANDIDATE (include street, city/town and ZIP) <i>P.O. Box 461 Delta, Co. 81416</i>	3. ADDRESS OF PLACE TO HAVE SPECIAL EVENT (include street, city/town and ZIP) <i>Bill Haddles Rec Center 530 Garrison Aven Drive 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>John Hassel</i>		<i>1451 E 5th St Delta, Co 81416</i>	<i>(970) 295-0534</i>
5. EVENT MANAGER <i>Fred Gallegos</i>		<i>1080 Crawford Ave Delta, CO 81416</i>	<i>(970) 399-3049</i>
6. HAS APPLICANT ORGANIZATION OR POLITICAL CANDIDATE BEEN ISSUED A SPECIAL EVENT PERMIT THIS CALENDAR YEAR? <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES HOW MANY DAYS? _____		7. IS PREMISES NOW LICENSED UNDER STATE LIQUOR OR BEER CODE? <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES TO WHOM? _____	

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
Hours From To	Hours From To	Hours From To	Hours From To	Hours From To
<i>10/3/14</i> 5 P.m. To 11 P.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>Fred Gallegos</i>	TITLE <i>Event manager</i>	DATE <i>7/29/14</i>
-----------------------------------	-------------------------------	------------------------

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 <input type="checkbox"/> COUNTY	TELEPHONE NUMBER OF CITY/COUNTY CLERK
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: Mayor and City Council
From: Wilma Erven, Parks, Recreation & Culture Director
Date: August 19, 2014
Subject: Recreation Center Snack Bar Contract



Recreation Department

Recommendation

It is recommended that City Council award the contract for the installation and operation of a Snack Bar at the Recreation Center to Aron & Stacey Cegielski.

Background

A snack bar with healthy food selections is something that has been wanted/needed at the Recreation Center for quite some time. Staff advertised for proposals for running a snack bar and received one proposal for Aron & Stacey Cegielski. Patrons have requests frequently for items we can't provide for them. Cegielski's have owned a restaurant here in Delta previously and have a clientele that have been asking them to do one again.

We are in the process right now of doing some repair to the area they would propose to use for the new snack bar. The current flooring, which is carpet, has become an issue due to people coming out of the pool wet. The carpet now has areas that we can't clean and are beginning to break down. Since we decided to change the carpet to tile, the staff made the decision to remove the inside wall of the planter and give that area more room, as it is very heavily used. All of this process has been started and it will work well for a potential vendor for a snack bar being set up in that area. All of this change is in the 2014 budget.

There is a small amount of electrical extension that will need to be done for the potential vendor, however it is an electrical upgrade that could be used for many other needs as well; ie: Chamber's Home and Garden Show.

The potential vendor will be making a large investment into the "snack bar" area, by purchasing all new stainless steel working areas, refrigerators and storage facilities. Their proposal also includes a façade that is all stained wood that will work very well with our décor.

The proposed lease is organized so that if Cegielski were to not continue at the Recreation Center, the area would be returned to the original condition.

Cost

The needed electrical extension will cost \$992. The cost of this repair will be taken out of the 2014 Repairs & Maintenance budget.

Alignment With Strategic Planning:

Offering a healthy environment, while increasing revenue at the Recreation Center is our goal.

Actions To Be Taken if Approved:

Have both parties sign the contract, and award the bid for the electrical.

COMMERCIAL LEASE

THIS COMMERCIAL LEASE ("Lease") is made by and between the CITY OF DELTA, a Colorado home rule municipality ("City") and Aron & Stacey Cegielski, ("Lessee").

IN CONSIDERATION OF THE MUTUAL COVENANTS CONTAINED HEREIN, THE PARTIES AGREE AS FOLLOWS:

1. Description of Premises:

City agrees to lease to Lessee the snack bar area at the Bill Heddles Recreation Center, City of Delta, County of Delta, and State of Colorado (the "Premises") as more specifically shown on the attached Exhibit B. Lessee also has the right to serve food and beverages in other areas of the Recreation Center with the City's permission.

2. Term:

The term of this Lease shall begin on _____, 2014 and run for a period of six (6) months. Upon expiration of the initial six (6) month term this Lease will automatically extend for a period of six (6) additional months unless either party provides thirty (30) day prior written notice of the intent to terminate this Lease at the end of the six month initial term. The term may be extended beyond these periods only by written agreement of the parties.

3. Rent:

A. Rent shall be \$425 per month. Payment shall be made to the City of Delta/Bill Heddles Recreation Center, at 530 Gunnison River Dr., Delta, CO. 81416. Rent is due on the first day of the month without demand. Failure to pay rent by the fifth (5th) day of the month shall constitute a default and be subject to the penalties set forth below. An exterior key to the Recreation Center will be provided to Lessee at time of contract signing, however, this will not include a security code for the alarm. Lessee agrees that a key to the snack bar kitchen will be provided to the City at contract signing.

4. Use of Premises:

Lessee shall use the Premises for the purposes of operating a commercial snack bar, as more fully described on the attached Exhibit A. The Premises are to be used for the purposes described herein and for no other purpose whatsoever. Lessee shall restrict its use to such purposes and shall not use or permit the use of the Premises for any other purpose without the written consent of the City. Lessee's use does not include the operation of a snack vending machine on the Premises. In addition, the City shall be permitted to provide coffee and tea service during those periods outside of Lessee's operating hours. It is understood that the City's snack machine will continue to be available in the lobby.

5. Waste, Nuisance or Unlawful Activity:

Lessee shall not allow or commit any waste or nuisance on the Premises, or use or allow the Premises to be used for any unlawful purpose. Lessee shall be responsible for keeping the Premises in a clean and neat condition free and clear of all trash and refuse.

6. Utilities:

City shall provide City water, sewer/septic, trash collection and electricity to the premises for the term of this Lease without charge to Lessee for use in conducting the business activities described herein. Lessee shall be responsible for any and all other utility service(s) in order to facilitate its business, provided, however, that the installation of new utilities is subject to City approval.

7. Taxes:

Lessee shall pay all personal property, sales, employment, and other applicable taxes and other charges which may be levied against the Premises and which are attributable to Lessee's use of the Premises.

8. Tenant Finish, Condition, Repairs, Maintenance and Cleaning:

Prior to commencing operations Lessee shall have the Premises and equipment professionally inspected at Lessee's expense by a commercial inspector and/or the Health Department to insure all equipment is in satisfactory working condition. Lessee accepts the Premises "as-is" and "where-is" with no representations or warranties by the City concerning the suitability of the Premises for Lessee's intended use.

Prior to commencing operations Lessee shall be responsible at its sole cost and expense for obtaining all necessary City of Delta Building Permits and for the following:

- Installation of full wall to right of pool office entry door per plan attached as Exhibit B.
- Installation of pony wall as indicated on Exhibit B.
- Wall finish per the Health Department requirements.

Prior to Lessee's commencing operations, the City shall:

- Removal of identified drywall at mop sink location.
- Partial demolition of planter wall.
- Complete all necessary electrical update. City will install a 3 pole 40 amp sub breaker in activity room panel, and run sub feeder to junction box in ceiling above snack bar panel with #8THHN.
- Strip, seal and stain concrete floor in snack bar area or lay tile.
- Repair any unforeseen structural issues to bring area up to Health Department code.

Lessee shall be responsible for all ongoing maintenance, and repairs. Lessee will be responsible for cleaning of the interior (kitchen) of the Premises, every evening; during the day Lessee is responsible for keep the whole snack bar area clean. Lessee shall promptly pay all costs and expenses of any alterations or additions performed by Lessee and no person shall be entitled to a lien directly or indirectly upon or against the City's interest in the Premises or any part thereof, by reason of such alterations or additions. Lessee shall obtain appropriate releases of liens from all contractors, subcontractors and material men prior to their commencement of any work on the Premises. All alterations or additions shall

be performed in a workmanlike manner and shall be owned by the City. Lessee shall post notice in accordance with CRS § 38-22-105(2) of the City's non-liability.

9. Delivery, Improvement and Surrender of Premises:

Acceptance of the Premises by Lessee shall be construed a recognition that the Premises are in a good state of repair and in a sanitary condition. Lessee shall surrender the Premises at the end of the Lease term, or any renewal thereof, in the same condition as when Lessee took possession, allowing for reasonable use and wear. All improvements that are made to the Premises must have prior written approval. Lessee shall have the right, upon termination of this Lease, to remove all equipment, personal property, trade fixtures and other assets owned by the Lessee which are located on the Premises; provided that the Lessee is not in default as to any term of the Lease; and provided that Lessee repairs all damages to the Premises caused by such removal.

10. Signs, Awnings and Marquees installed by Lessee:

Lessee shall not construct or place signs, awnings, marquees or other structures projecting from the exterior of the Premises without prior written approval by the City.

11. Indemnity of City and Hold Harmless:

Lessee agrees to indemnify City, its officers, employees, insurers and self insurance pool from against liability, claims and demands on account of injury, loss or damage to other persons and property with the exemption of negligent actions of the City, its officers, employees, insurers and self insurance pool.

12. Liability Insurance:

The Lessee agrees to procure and maintain, at its own costs, a policy or policies of insurance sufficient to insure against all liability, claims, demands, and other obligations assumed by the Lessee. Such insurance shall be in addition to any other insurance requirements imposed by this Lease or by law. The Lessee shall not be relieved of any liability, claims, demands, or other obligating assumed pursuant to this Lease by reason of its failure to procure or maintain insurance in sufficient amounts, durations or types. Lessee is responsible for maintaining its own insurance coverage over its furniture, fixtures including trade fixtures, equipment and other personal property.

Lessee shall procure and maintain, and shall cause any subcontractor of the Lessee to procure and maintain, the minimum insurance coverage listed below. Such coverage shall be procured and maintained with forms and insurers acceptable to City. All coverage shall be continuously maintained to cover all liability, claims, demands, and other obligations assumed by the Lessee pursuant to this Lease. In case of any claims made on the policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage.

A. Workmen's Compensation insurance to cover obligations imposed by applicable laws for any employee engaged in the performance of work under this contract, and Employee's Liability insurance with minimum limits of FIVE HUNDRED THOUSAND DOLLARS (\$500,000) per each accident and FIVE HUNDRED THOUSAND DOLLARS (\$500,000) disease-policy limit, and FIVE HUNDRED THOUSAND DOLLARS (\$500,000) disease-each employee. Evidence of qualified self-insured status may be substituted for the Workmen's Compensation requirements of this paragraph upon written consent of City.

B. Commercial General Liability insurance with minimum combined single limits of THREE HUNDRED AND FIFTY THOUSAND DOLLARS (\$350,000) each occurrence and ONE MILLION DOLLARS (\$1,000,000) aggregate. The policy shall be applicable to all premises and operations. The policy shall include coverage for bodily injury, broad from property damage (including completed operations), personal injury (including coverage for contractual employee acts), and blanket contractual and independent contractors. The policy shall contain a severability of interest provision.

The policy required by subparagraph (B) above shall be endorsed to include City and City's officers and employees as additional insured. Every policy required above shall be primary insurance and any insurance carried by City, its officers, or its employees, or carried by or provided through any insurance pool of City, shall be excess and not contributory insurance to that provided by Lessee. No additional insured endorsement to any policy shall contain any exclusion for bodily injury or property damage arising from completed operations. The Lessee shall be solely responsible for any deductible losses under any policy required above in connection with its liability under Section 11 above.

The Certificate of Insurance provided to the City shall be completed by the Lessee's insurance agent as evidence that policies providing the required coverage, conditions and minimum limits are in full force and effect, and shall be reviewed and approved by City prior to commencement of the Lease. The Certificate shall identify this Lease and shall provide that the coverage afforded under the policies shall not be cancelled, terminated or materially changed until at least 30 days prior written notice has been given to City. The completed Certificate of Insurance shall be sent to City by Lessee or pertinent insurance agent.

Failure on the part of the Lessee to procure or maintain policies providing the required coverage, conditions and minimum limits shall constitute a material breach of contract upon which City may immediately terminate this contract, or at its discretion, City may procure or renew any such policy or any extended reporting period thereto and may pay any and all premiums in connection therewith, and all monies so paid by City shall be repaid by Lessee to City upon demand, or City may offset the cost of the premiums against any monies due to lessee from City.

City reserves the right to request and receive a certified copy of any policy and any endorsement thereto.

The parties hereto understand and agree that the City is relying on, and does not waive or intend to waive by any provision of this Lease the monetary limitations (presently \$350,000.00 per person and \$990,000.00 per occurrence) or any other rights, immunities, and protections provided by C.R.S. §§ 24-10-101 *et seq*, as from time to time amended, or otherwise available to the City, its officers or its employees.

13. Property Insurance:

City shall have City's property on the leased premises covered under City's CIRSA property insurance policies and provide Lessee with a certificate of such insurance. Lessee shall be responsible for losses not covered due to said policy's deductible, or for losses outside the scope of such policy's coverage. Lessee shall be responsible for insuring Lessee's own property at Lessee's expense. Lessee will be responsible for the payment of any increased premiums for the City's insurance that results from Lessee's use. Such additional premium costs shall be considered additional rent due upon presentment of

an invoice from the City.

14. Assignment of Sublease:

Lessee shall not assign this Lease or sublet the Premises without the prior written approval of the City, which may be withheld for any reason. The financial status, the experience, and moral character of the proposed assignee may be considered by the City in the event of a request for consent to assignment.

15. Breach:

The following constitute a breach of this Lease: the nonpayment of rent or additional rent when due, abandonment, the appointment of a receiver to take possession of the assets of Lessee, a general assignment for the benefit of the creditors of Lessee, any action taken or allowed to be taken by Lessee under any bankruptcy act, and/or the failure of Lessee to comply with each and every term and condition of this Lease. Other than for payment of rent or additional rent due under this Lease, which is due without demand, Lessee shall have ten (10) days after receipt of written notice from City of any breach to correct the conditions of breach specified in the notice.

16. Remedies of City for Breach by Lessee:

Upon the occurrence of any breach, all of Lessee 's rights to possession of the Premises shall automatically terminate, and the City shall have the option to pursue any one or more of the remedies available at law, in equity, or under this Lease, without any notice or demand whatsoever, including without limitation the following:

A. Upon the termination of Lessee's possessory rights, Lessee shall immediately and peacefully surrender the Premises to the City, and if Lessee fails to do so, the City, without prejudice to any other remedy which the City may have for possession, damages, or arrearages in rental, may enter upon and take possession of the Premises through legal process or, if no individual person is then actually on or about the Premises and breach of the peace can be avoided, without use of legal process. Thereafter the City may have, hold and enjoy the Premises and the right to receive all rental income therefrom, and may alter all locks and other security devices at the Premises.

B. At any time after such termination of Lessee's possessory rights, the City may relet the Premises or any part thereof for such term (which may be greater or less than the balance of the term of this Lease) and on such conditions as the City, in its absolute discretion, may determine, and may collect and receive the rents therefor.

17. Notice:

Notice to City: City of Delta
Attn: City Manager
360 Main Street
Delta, CO 81416

Notice to Lessee: Aron & Stacey Cegielski
4979 4200 Road
Crawford, CO. 81415

18. Quiet Enjoyment:

The Lessee, upon the payment of the rental herein provided and upon the performance of all of the terms of this Lease, shall at all times during the lease term and during any extension thereof, peaceably and quietly enjoy the Premises without any disturbance from the City, or any other person claiming through the City.

19. Abandonment:

If the Premises are abandoned or left vacant, the City may at its option, without terminating this Lease, retake possession and lease the Premises for such rent and upon such terms as the City deems best. The City is authorized to make any reasonable repairs necessary in order to re-rent the Premises. The City shall give Lessee credit for the amount to the rentals received, less all reasonable expenses for repairs and releasing, and Lessee shall be liable for the balance of the rental due under the terms of this Lease.

20. Right to Enter:

Except in case of emergency, the City and its representatives may enter upon the Premises upon twenty-four (24) hours notice. For purposes of this section, verbal, telephonic or electronic mail notice is permitted.

21. Holding Over:

In the event Lessee remains in possession of the Premises after the expiration of the term, or earlier termination of this Lease, Lessee shall be deemed to hold the Premises as a Lessee from month to month, and all of the terms, conditions, and covenants of this Lease shall be applicable during the holdover period. The monthly installments of rent payable during such holdover period shall be an amount equal to the amount of the monthly rental payable at the time of such expiration or earlier termination. During any holding over period either party may terminate the month-to-month tenancy by giving thirty (30) days prior written notice to the other.

22. Standards of Operation and Conditions:

- A. Lessee shall maintain high standards of service and quality of food and operate in accordance with all applicable Federal, State and/or local Health Department regulations.
- B. Proposed menu items and hours of operation are set out in Exhibit "A". As Lessee makes changes to the menu, they must be review with the City.
- C. Lessee and Lessee's employees shall provide friendly and courteous service at all times.
- D. Lessee shall obtain applicable city and state sales tax licenses.
- E. Lessee shall comply with all applicable Federal, State, City and local government requirements.
- F. Lessee must establish and maintain an attractive uniform dress code for its employees appropriate for Bill Heddles Recreation Center operations.

G. The City shall have the right to sell or to authorize other concessionaires to sell food and other items for special events. However, they may not use Lessee's kitchen. Other concessionaires will be required to provide all documentation of liability insurance, Workmen's Compensation insurance, sales tax certificate, and business license, to the City and to follow all applicable Health Department Regulations.

H. The City shall have the right to sell goods and services for special events, with specific dates and terms agreed upon annually by Lessee and the City. The City may not use Lessee's Kitchen.

23. Miscellaneous:

A. Relationship of the City and Lessee. Nothing herein contained shall be deemed or construed by the parties hereto, nor by any third party, as creating the relationship of principal and agent or of partnership or of joint venture between parties hereto, it being understood and agreed that neither the method of computation of rental, nor any other provisions contained herein, nor any acts of the parties hereto, shall be deemed to create any relationship between the parties hereto other than the relationship of the City and Lessee. Whenever herein the singular number is used, the same shall include the plural, and words of any gender shall include each gender.

B. Entire Agreement and Execution. This Lease and any Exhibits hereto contain the entire agreement between the parties and no agreement shall be effective to change, modify or terminate this Lease in whole or in part unless such agreement is in writing and duly signed by the party against whom enforcement of such change, modification or termination is sought. This Lease shall not be effective or binding on the City or Lessee until fully executed by both and delivered by each to the other. This Lease may be executed in counterparts. Each counterpart shall be deemed to be an original hereof.

C. Governing Law; Jurisdiction. The laws of the State of Colorado shall govern the interpretation, validity, performance and enforcement of this Lease. Lessee understands and agrees that the District courts located in the County of Delta, State of Colorado shall have subject matter jurisdiction to entertain any action brought to enforce this Lease and, by execution hereof, voluntarily submits to the personal jurisdiction of such courts.

D. Lessee Obligations Survive Expiration or Termination. To the extent necessary to obtain the full performance of Lessee's obligations under this Lease, such obligations shall survive the expiration or earlier termination of this Lease or the termination of Lessee's possessory rights hereunder, and shall continue in effect for so long as may be necessary to obtain such performance.

E. City Remedies Cumulative. The remedies given to the City throughout this Lease shall be cumulative, non-exclusive, and discretionary, and the City may choose amongst such remedies in any manner that it may consider appropriate under the circumstances. Furthermore, such remedies shall be in addition and supplemental to all other rights or remedies that the City may have at law or in equity.

F. Attorney's Fees. In the event of any action or proceeding brought by the City under this Lease, the City shall be entitled to recover all reasonable costs and expenses, including the fees and expenses of its attorneys.

G. No Recordation. Without the prior consent of the City, which consent may be withheld in the City's sole discretion, Lessee shall not record this Lease or any evidence of this Lease.

H. Compliance with TABOR. No provision of this Agreement shall be construed or interpreted: i) to directly or indirectly obligate City to make any payment in any year in excess of amounts appropriated for such year; ii) as creating a debt or multiple fiscal year direct or indirect debt or other financial obligation whatsoever within the meaning of Article X, Section 6 or Article X, Section 20 of the Colorado Constitution or any other constitutional or statutory limitation or provision; or iii) as a donation or grant by City to or in aid of any person, company or corporation under applicable law.

So agreed this ____ day of _____, 2014.

CITY OF DELTA, COLORADO

BY: _____

LESSEE:

Aron Cegielski

Stacey Cegielski

HOUSE BLENDS

16 OZ OF BLENDED FUEL IN A BIODEGRADABLE CUP!!! ☺

I HEART CHERRIES(CHERRIES JUICE YOGURT SWEET MILK) 3.50

BROWN MONKEY(PB2 BANANA COCONUT SUGAR) 2.50

4TH OF JULY(BLUES CHERRIES VANILLA LEMON) 4.50

SPICY BUNNY(CARROT APPLE GINGER) 3.00

THE GREEN MONSTER(ALMOND MILK SPINACH FLAX BANANA) 3.50

FRUITY H2O (1 FRUIT ICE WATER-BLENDED) 2.00

OAT BERRY(RASPBERRIES YOGURT BANANA OATS HONEY COCONUT WATER) 4.25

COOL AS A CUCUMBER(STRAWBERRY CUKE ALMOND MILK HONEY) 3.50

TEA TIME(GREEN TEA HONEY ICE CREAM BANANA) 3.25

NUTTY CHERRY(CHERRIES BANANA ALMOND MILK ALMOND BUTTER) 4.50

BLENDED CHAI OR CRÈME 2.50

COFFEE(12 OZ) 1.50

DOLPHIN(ORANGE GATORADE ICE CREAM) 1.75

AN APPLE A DAY(YOGURT APPLE OJ HONEY) 3.50

SPECKLED LEMON(STRAWBERRIES LEMON) 2.50

PURPLE COW(BLUES GRAPE CONCENTRATE ALMOND MILK) 3.50

GREEN EYES(SPINACH BLUES MANGO BANANA) 3.00

BARRACUDA(BLUE GATORADE ICE CREAM) 1.75

JUICE "ADD INS"(COST ON TOP OF JUICE PRICE)

CHIA SEED .50 GOLDEN FLAX .50 ICE CREAM TO ANY DRINK 1.00

STEVIA DROPS .25 PB2(PEANUT BUTTER POWDER) .75

MISCELLANEOUS OFFERINGS

PROTEIN POWDER(CHOICE OF LIQUID) 5.75

YOGURT CUP WITH FRESH MADE GRANOLA 3.00

CRISPY CREATION PLAIN 1.50 W/DRIZZLE 2.00 GOURMET 2.50

(UNLESS OTHERWISE MARKED)

YOUR PERSONALLY BLENDED JUICE

YOUR CHOICE OF 3 FRUITS OR VEGGIES OR A COMBO OF BOTH WITH ONE BASE LIQUID BLENDED INTO A DELICIOUSLY HEALTHY FIBER FILLED FUEL.....4.50

YOUR SALAD

YOUR CHOICE OF 1 BASE: SPINACH FIELD GREENS OR ROMAINE

AND 3 ADDITIONAL VEGGIES OF YOUR CHOICE WITH DRESSING ...5.50

THAT'S OUR WRAP

1 12" WRAP WITH YOUR CHOICE OF 3 VEGGIES PLUS A BASE:

SPINACH, FIELD GREENS OR ROMAINE **ADD 2 OZ OF: TURKEY, HAM OR

FRESH MADE HUMMUS 1.00 EXTRA

WE ALL SCREAM FOR ICE CREAM!!!

2 SCOOPS IN A CUP: PLAIN VANILLA 1.50

SPECIALTY FLAVOR 2.00

GOURMET FLAVOR 2.75

1 SPOON OF TOPPINGS 1.00

CHOP...AT THE REC

530 GUNNISON RIVER DRIVE

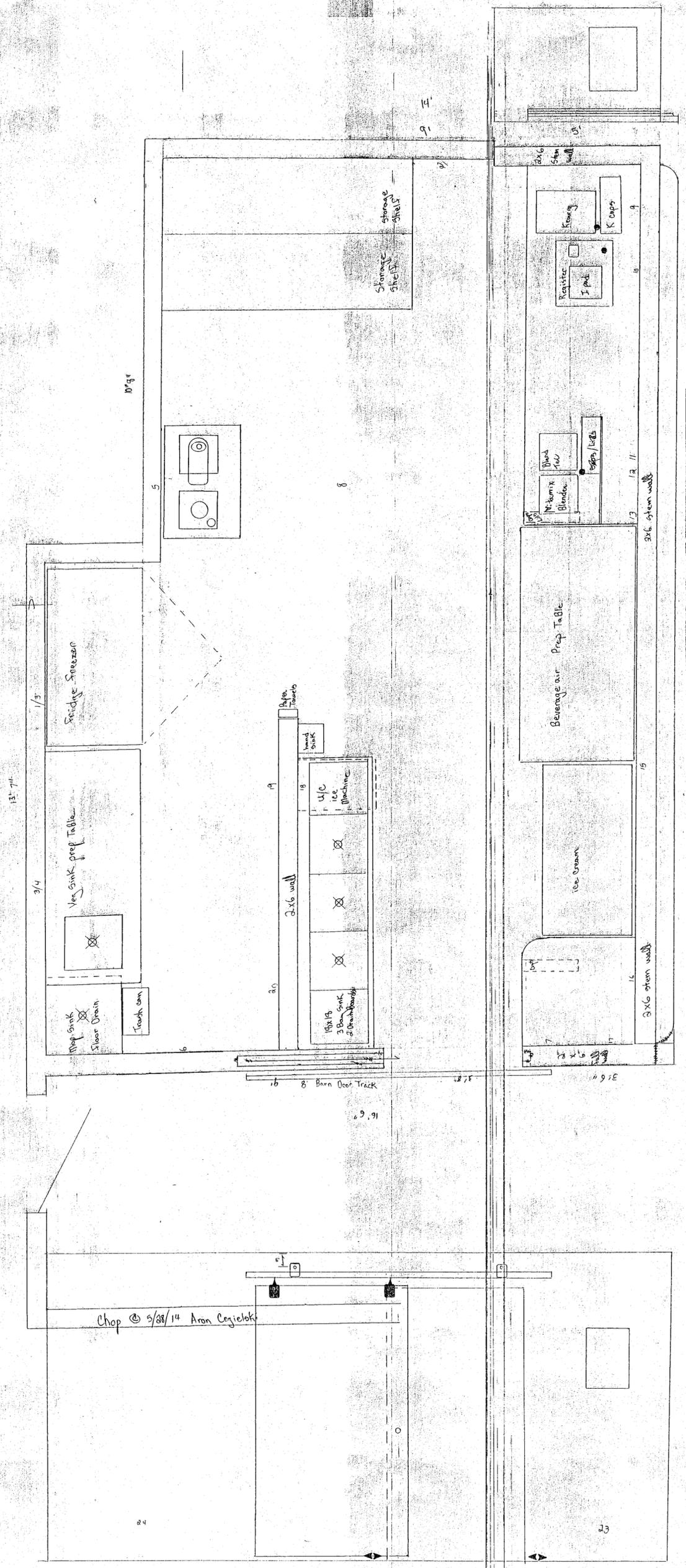
DELTA, CO 81416

(970)874-0923

Proposed snack bar hours to be as follows:

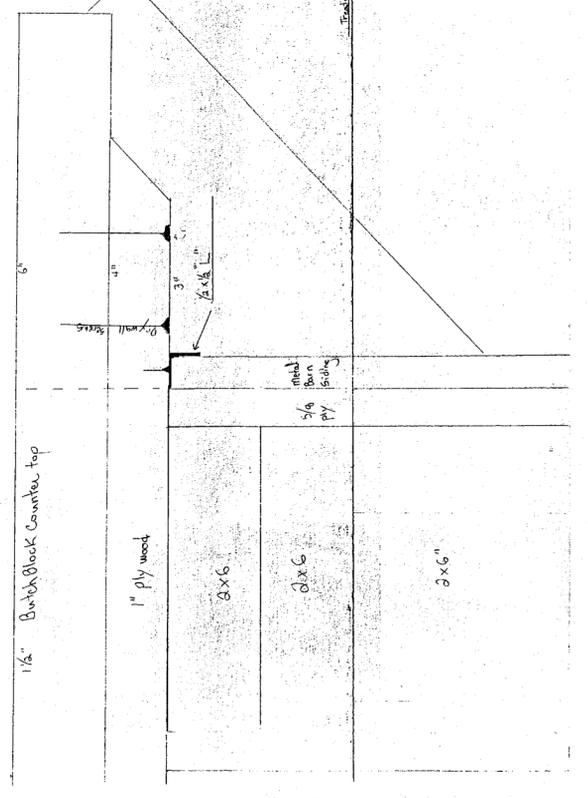
MONDAY - FRIDAY	7 AM - 6 PM
SATURDAY	8 AM - 7 PM
SUNDAY	CLOSED

*** These are our initially proposed hours. They will be adjusted according to the Bill Heddles Recreation schedule, events schedule, any catered events and/or sports activities and agreed upon between the Rec Center and Chop...at the rec.



col
 10/25/14
 6/15/14

Barn wood siding
 Beam Light 25
 Kitchen Light L 26
 Sign Light R 27



MEMO

To: City Council
From: Justin Clifton, City Manager
Date: August 19, 2014
Subject: Ballot Questions



Office of the City Manager

Recommendation:

Staff recommends that Council consider the resolution language outlining two ballot questions.

Background:

The language for these ballot questions comes after almost two years of consideration from the Citizen Financial Task Force and numerous work sessions with City Council. The language reflects the desired outcome to lift TABOR restrictions and make permanent a portion of the sales tax used to fund the Rec Center while also broadening its use. Staff has attempted to educate citizens about the ballot questions through fliers in utility bills sent in June, July and August; speaking appearances at various service organizations and interest groups as well as one public forum.

Most of the feedback from personal discussions has been positive. Staff has received some feedback from citizens that prefer to keep TABOR in place. Regarding the Rec Center tax, almost all of the negative feedback concerns funding the golf course and/or the possibility that funds will be taken from the Rec Center. Some citizens that oppose the golf course still prefer the idea of funding it through sales tax opposed to utility bills.

The consideration of the resolution is set for public hearing. Council still has the opportunity to discuss and implement any changes to the draft language. Staff is not looking for Council to adopt the resolution. Rather, Council should make any changes it sees fit and approve the draft language of the resolution, which would be under final consideration at the September 2nd meeting.

Cost:

The cost of participating in the election has already been established and approved at approximately \$10,000.

Alignment With Strategic Planning:

Both ballot questions are intended to address financial sustainability. In addition, these tax related issues have been on Council's priority list since 2012. Both questions are included in recommendations from the Citizen Financial Task Force going back to 2012.

Actions To Be Taken if Approved:

Staff will make any changes as directed by Council and place the resolution on the September 2, 2014 agenda for final approval.

Resolution No. ____, 2014

A RESOLUTION OF THE DELTA CITY COUNCIL,
AUTHORIZING A TABOR ELECTION ON NOVEMBER 4,
2014, FIXING BALLOT TITLES AND QUESTIONS, AND
SETTING FORTH OTHER DETAILS RELATING THERETO.

WHEREAS, the City of Delta (the “City”), is a duly organized and existing home rule municipality of the State of Colorado, created and operating pursuant to Article XX of the Constitution of the State of Colorado and the home rule charter of the City; and

WHEREAS, the members of the City Council of the City (the “Council”) have been duly elected and qualified; and

WHEREAS, Article X, Section 20 of the Colorado Constitution (“TABOR”) requires voter approval for the extension of any existing and expiring taxes, for the creation of any debt and for spending certain moneys above limits established by TABOR; and

WHEREAS, TABOR requires the City to submit ballot issues (as defined in TABOR) to the City’s electors on limited election days before action can be taken on such ballot issues; and

WHEREAS, November 4, 2014, is the date of the next regular election in the City and one of the election dates at which ballot issues may be submitted to the eligible electors of the City pursuant to TABOR; and

WHEREAS, pursuant to Article VII of the City’s Charter, the Council may refer matters to the electorate, and the conduct of the election shall be governed by applicable Colorado statutes; and

WHEREAS, the City has determined that the City Clerk (the “Clerk”) will conduct the election on November 4, 2014 as a coordinated mail ballot election pursuant to the Colorado Municipal Election Code and Article 7.5 of the Uniform Election Code; and

WHEREAS, the Council hereby determines that it is necessary to submit to the electors of the City, at the regular election to be held on November 4, 2014, questions concerning the extension and use of an existing sales tax and a question seeking to remove the TABOR limitations on a few specifically identified sources of revenue for the City, as further described in the ballot issues set forth below; and

WHEREAS, it is necessary to set forth certain procedures concerning the conduct of the election.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DELTA, COLORADO, AS FOLLOWS:

Section 1. All action heretofore taken (not inconsistent with the provisions of this resolution) by the City and the officers thereof, directed towards the election and the objects and purposes herein stated is hereby ratified, approved and confirmed.

Section 2. Unless otherwise defined herein, all terms used herein shall have the meanings defined in the Municipal Election Code and the Uniform Election Code.

Section 3. The Council hereby determines that the regular election to be held on November 4, 2014, shall be conducted as a coordinated mail ballot election pursuant to Article 7.5 of the Uniform Election Code; however, to the extent that procedures for the election are not provided in Article 7.5 of the Uniform Election Code, the Municipal Election Code shall apply.

Section 4. The Council hereby determines that at the regular election to be held on November 4, 2014, there shall be submitted to the eligible electors of the City the questions set forth in Sections 5 and 6 hereof.

Section 5. The following ballot issue, certified in substantially the form set forth below, is hereby referred to the registered electors of the City and shall appear on the ballot of the City of Delta at the November 4, 2014 election:

WITHOUT RAISING OR INCREASING TAXES OF ANY KIND, BEGINNING ON JANUARY 1, 2015 SHALL THE 0.75% SALES TAX ORIGINALLY APPROVED BY ORDINANCE NO. 8, 1991, WHICH CURRENTLY IS SET TO EXPIRE IN 2020 AND IS TO BE USED ONLY FOR CAPITAL, OPERATIONS AND MAINTENANCE AT THE BILL HEDDLES RECREATION CENTER, BE EXTENDED IN PERPETUITY AND BE PERMITTED TO BE USED FOR THE PARKS, RECREATION, TRAIL, AND OPEN SPACE USES OF THE CITY GENERALLY, INCLUDING, BUT NOT LIMITED TO OPERATIONS, MAINTENANCE, AND CAPITAL IMPROVEMENTS OF THE RECREATION CENTER, ALL CITY-OWNED PARKS AND TRAILS, THE DEVIL'S THUMB GOLF COURSE, CITY RECREATION PROGRAMS AND ACTIVE AND PASSIVE OPEN SPACE USES, AND SHALL SUCH TAX REVENUES BE COLLECTED, RETAINED AND SPENT AS A VOTER APPROVED REVENUE CHANGE NOTWITHSTANDING ANY RESTRICTIONS UNDER ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?

Section 6. The following ballot issue, certified in substantially the form set forth below, is hereby referred to the registered electors of the City and shall appear on the ballot of the City of Delta at the November 4, 2014 election:

WITHOUT RAISING OR IMPACTING TAXES, BEGINNING IN FISCAL YEAR 2014 AND CONTINUING THEREAFTER SHALL THE CITY OF DELTA BE PERMITTED TO COLLECT, RETAIN AND EXPEND ALL REVENUE DERIVED FROM ALL OF THE CITY'S EXISTING FEES, CHARGES AND OTHER SOURCES RELATED TO USE OF CITY FACILITIES INCLUDING MUNICIPAL COURT AND FRANCHISE FEES AND THE REVIEW AND ISSUANCE OF PERMITS AND LICENSES BY THE CITY INCLUDING BUILDING AND LAND USE APPLICATION FEES TO THE EXTENT SUCH REVENUE SOURCES ARE LIMITED BY AND EXCEED THE CONSTITUTIONAL LIMITATIONS ON REVENUE FOUND IN ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION AND SHALL SUCH REVENUES BE COLLECTED, RETAINED AND SPENT AS A VOTER APPROVED REVENUE CHANGE, NOTWITHSTANDING ANY RESTRICTIONS UNDER ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?

Section 7. The Clerk is hereby appointed as the designated election official of the City for purposes of performing acts required or permitted by law in connection with the election.

Section 8. The City acting through the Council shall be authorized to proceed with the necessary action to implement and enforce either or both of the questions above if such measure is approved by the registered electors of the City.

Section 9. Pursuant to Section 31-10-1308(2), C.R.S. and Section 1-11-203.5, C.R.S., any election contest arising out of a ballot issue or ballot question election concerning the order of the ballot or the form or content of the ballot title shall be commenced by petition filed with the proper court within five days after the title of the ballot issue or ballot question is set.

Section 10. If any section, paragraph, clause or provision of this resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall in no manner affect any remaining provisions of this resolution.

Section 11. All resolutions or parts of resolutions inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any resolution or part of any resolution heretofore repealed.

Section 12. The effective date of this resolution shall be immediately upon adoption.

INTRODUCED, PASSED AND ADOPTED at a regular meeting of the City Council of the City of Delta, Colorado, on _____, 2014.

(S E A L)

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

6. Notice of the regular meeting of _____, 2014, in the form attached hereto as Exhibit A was posted at the City Hall not less than twenty-four hours prior to the meeting in accordance with law.

City Clerk

(SEAL)

EXHIBIT A
(Attach Notice of Meeting)

769058.3

Attorney Comments



City Manager Comments



Councilmember Comments

