



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

AGENDA

**Delta City Council
Work Session**

**February 3, 2015
5:30 p.m.**

- A. Sales Tax/ Finance Overview**
- B. ML&P Yard Expansion**
- C. Policy Discussion: Juvenile Curfew**
- D. Policy Discussion: Hash Oil**
- E. Policy Discussion: Pawn Brokers**
- F. Policy Discussion: E-cigarettes**

MEMO

To: City Council
From: Justin Clifton, City Manager
Date: February 3, 2015
Subject: Finance Review

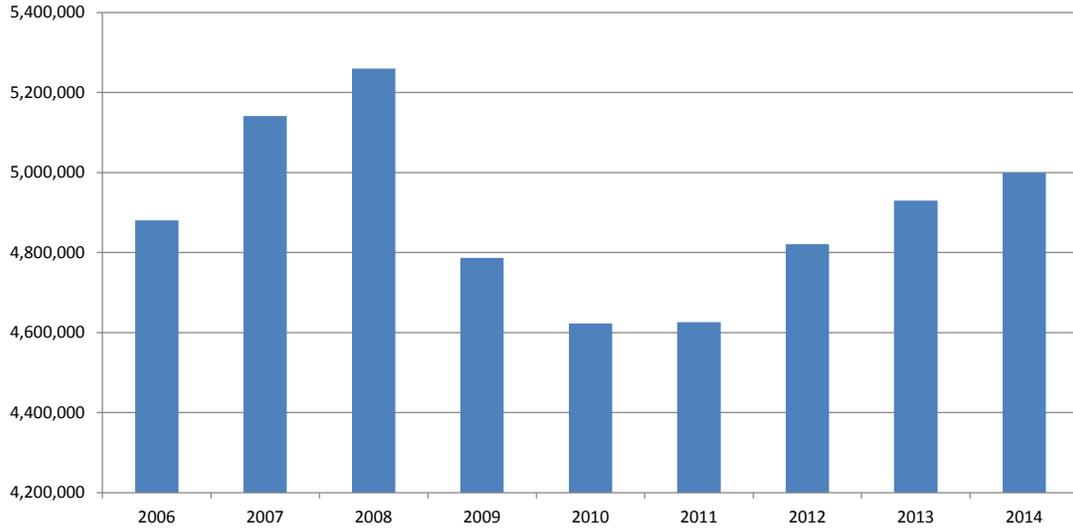


Office of the City Manager

Please see the attached sales tax report from last year. This report is not 100% conclusive as some December payments are still being made. However, staff wanted to get you an early review of how things look. As you can see on the attached report, the City ended the year above 2013 collection levels. Tod will be present at the work session to review sales tax data, and give a verbal report on general city finances. This is a preliminary report that will be followed by a more complete and detailed report after the year end books are closed in the next 4-6 weeks.

City of Delta
Sales & Use Tax Revenue

Month Collected	Year 2006 Actual	Year 2007 Actual	Year 2008 Actual	Year 2009 Actual	Year 2010 Actual	Year 2011 Actual	Year 2012 Actual	Year 2013 Actual	Year 2014 Actual	2014 Year % of Budget
Jan	478,491	502,146	512,891	502,834	489,226	465,009	475,462	508,416	494,184	4,872,754
Feb	348,530	363,511	382,950	383,744	338,850	331,752	336,858	375,113	367,987	
March	356,687	358,934	394,915	366,307	341,237	336,011	356,225	350,463	356,078	
April	398,470	424,542	444,236	419,911	393,359	386,989	404,810	418,128	422,283	
May	373,381	400,927	401,382	376,315	378,193	379,318	371,291	374,260	397,988	
June	413,545	421,282	477,723	400,766	377,799	374,695	391,476	450,655	412,197	
July	422,448	476,936	484,793	418,309	416,428	407,845	454,522	438,342	430,602	
August	414,302	440,243	439,190	388,655	395,523	381,871	401,486	398,520	426,864	
Sept	410,308	429,898	462,658	389,587	391,524	366,572	389,784	415,633	445,625	
Oct	418,555	479,815	452,954	393,087	399,006	401,500	434,372	427,687	433,765	
Nov	429,088	419,360	404,949	386,698	345,509	389,836	389,537	385,850	411,119	
Dec	416,902	423,456	401,165	360,458	356,529	404,373	414,991	386,822	400,875	
	4,880,707	5,141,050	5,259,806	4,786,671	4,623,183	4,625,772	4,820,814	4,929,889	4,999,567	102.60%



MEMO

To: City Council
From: Steve Glammeyer, P.E., Utilities/Public Works Director
Date: February 3, 2015
Subject: Discussion on fence expansion at ML&P building



Utilities/Public Works Department

During the 2015 budget session, staff budgeted money to expand the current storage yard and staging area adjacent to the ML&P building into the area created by the construction of the truck route. Attached is a map showing the proposed expansion area. Staff intends to move the current power pole storage into that new area and also construct an outside vehicle storage shed to extend the life of our equipment. Staff will be seeking Council consensus to expand this area and will be prepared to answer any questions Council might have.



W-11TH-ST

PALMER-ST

ALLEY

**ML&P
Fence line
expansion**

CONFLUENCE DRIVE

CONFLUENCE DRIVE

ALLEY



January 27, 2015

MEMO

To: Delta City Council
Justin Clifton, City Manager



From: Robert Thomas, Chief of Police

Date: February 3, 2015

Subject: New Code Language for Juvenile Loitering

Office of the Chief of Police

Recommendation:

Review and discuss proposed “new” code language to the current Juvenile Loitering ordinance.

Background:

In 1995, the City of Delta established a juvenile loitering ordinance. For public safety reasons, the Delta Police Department would like to establish a set time frame in which children under the age of 18 are not permitted to roam the City of Delta.

Cost:

Not Applicable

Alignment with Strategic Planning:

This policy is in alignment with the City’s comprehensive plan in which public safety is committed to the preservation of life, property and environment.

Actions To Be Taken if Approved:

An ordinance will be drafted pending feedback from council.

09.04.250 Juvenile Curfew (Amended)*

a. No person under eighteen years of age shall be or remain upon any public street, sidewalk, or any public place, or right of way between midnight and 5 a.m., except as provided in Subsection (b) of this section.

b. In the following exceptional cases, a minor may be or remain in a public place beyond the hours set forth in Subsection (a) of this section:

1. When accompanied by a parent or legal guardian.
2. When traveling directly from a recognized community event (e.g. school function, movie theatre).
3. For one-half hour before or after employment hours when commuting directly to and from such employment and when carrying an employer's certification of time and place of employment.
4. Until 12:30 a.m., if the person is on the property or a sidewalk directly adjacent to a building in which such person resides or buildings immediately adjacent to the building in which such person resides.
5. The child received authorization from a parent or legal guardian.

c. A police officer who has probable cause to believe that a child is in violation of this section shall take such child into protective custody and immediately contact the child's parent or guardian. If, after this contact, there is probable cause to believe that the child was violating this section, the child shall be turned over to the custody of the Delta County Health and Human Services until a parent or guardian can take custody of the child.

d. No parent or legal guardian shall permit or by inefficient control allow a violation of this section by a child in such person's custody or control. The parent or legal guardian may be prosecuted for a violation of the ordinance.

e. Any child and/or parent, or legal guardian served with a citation under this section shall appear in Municipal Court.

f. There is no defense that a parent or guardian, or other person having the care and custody of the child was indifferent to the activities, conduct or whereabouts of such child.

g. Upon the conviction of a violation of this section, the Municipal Court shall have authority to:

1. Hereby authorized to impose Useful Public Service hours not to exceed one hundred (100) hours, in addition to any fine:

2. Impose a minimum of twenty (20) hours of Useful Public Service upon the first conviction of a violation of this Section.
3. Impose a minimum of forty (40) hours of Useful Public Service upon a second and subsequent conviction.
4. In the event useful public service is imposed, the Municipal Court shall assess costs for the administration of Delta County Alternative Sentencing in the amount of \$100.00 upon which this fee shall not be suspended.

*This Juvenile Curfew ordinance replaces the Juvenile Loitering Ordinance.

Current Juvenile Loitering Ordinance (9.04.250) states:

A. It shall unlawful for any person under the age of 18 years to loiter on or about any street, avenue, highway, road, sidewalk, curb, gutter, parking lot, alley, vacant lot, park, playground, yard, building, place of amusement, or eating place, whether public or private, without the consent or permission of the owner, or occupant thereof, during the hours from 12:00 a.m. through 6:00 a.m. on Saturday and Sundays, and from 10:00 p.m. on Sundays, Mondays, Tuesdays, Wednesdays, and Thursdays, to 6:00 a.m. of the following day. No violation of this subsection will have occurred if the person under the age of 18 years is accompanied by a parent, guardian, or other adult person over the age of 21 years who is authorized by a parent or guardian of such juvenile to take said parent's place in accompanying said juvenile for a designated period of time and purpose within a specified area.

B. It shall be unlawful for the parent, guardian, or other adult person having the care and custody of a juvenile under the age of 18 years to knowingly permit or allow such juvenile to loiter at the places and within the time prohibited by subsection A of this section. The term "knowingly" includes knowledge which a parent should be reasonably expected to have concerning the whereabouts of a juvenile in that parent, or guardian's custody. It shall be no defense that a parent, guardian, or other person having care and custody of the juvenile was indifferent to the activities, conduct or whereabouts of such juvenile.

C. "Loitering" or "Loiter" shall mean remaining idle in essentially one location, to be dilatory, to tarry, to dawdle, and shall include but not limited to standing around, hanging out, sitting, kneeling, sauntering, or prowling.

MEMO

To: Delta City Council
Justin Clifton, City Manager



From: Robert Thomas, Chief of Police

Date: February 3, 2015

Subject: Draft Ordinance Language for Marijuana Concentrate

Office of the Chief of Police

Recommendation:

Review and discuss draft ordinance language relating to Marijuana Concentrate.

Background:

The attached draft ordinance language is provided for elected officials and city manager . The draft ordinance prohibits the production and/or manufacture of marijuana concentrate.

Cost:

Not Applicable

Alignment with Strategic Planning:

This draft ordinance is in alignment with the City's comprehensive plan in which public safety is committed to the preservation of life, property and environment.

Actions To Be Taken if Approved:

I am requesting that Council provide feedback and recommendations on how to proceed.

A BILL FOR AN ORDINANCE

AN ORDINANCE TO BE INCLUDED IN CHAPTER 8.34 OF THE CITY OF DELTA MUNICIPAL CODE REGARDING THE EXTRACTION OF MARIJUANA CONCENTRATE.

The possession of any quantity of marijuana concentrate has historically been treated as completely unlawful in Colorado; and

Because possession of marijuana concentrate has historically been treated as completely unlawful, state and city laws have never been necessary to address how and where marijuana concentrate may be extracted from marijuana plants;

WHEREAS, the adoption of Amendment 20 adding Section 14 to Article XVII of the Colorado Constitution, created an affirmative defense and a limited exception to state criminal laws for patients and primary caregivers who possess or produce a limited amount of marijuana concentrate for medical use to treat a debilitating medical condition; and

WHEREAS, Amendment 20 prohibits both patients and primary caregivers from acquiring or producing marijuana concentrate in a way that endangers the health or well-being of any person; and

WHEREAS, the adoption of Amendment 64 adding a new Section 16 to Article XVII of the Colorado Constitution, allows person over the age of 21 in Colorado now to claim immunity from prosecution under state or city laws for possessing marijuana concentrate in a quantity of one ounce or less for personal use or for distribution to others without compensation; and

WHEREAS, Amendment 64 provides that, in the interest of the health and public safety of our citizenry, marijuana sold in Colorado will be subject to additional regulations to ensure that consumers are protected; and

WHEREAS, both Amendment 20 and Amendment 64 are silent on the question of how and where marijuana concentrate may be processed or manufactured for medical or personal use; and

WHEREAS, this state of affairs has resulted in a gap in the law in terms of regulating the appropriate methods and locations where marijuana concentrate may be extracted from marijuana plants, which has led numerous examples of persons using highly dangerous methods of extracting marijuana concentrate in inappropriate, unregulated settings, including residential locations.

EXTRACTION OF MARIJUANA CONCENTRATE PROHIBITED

A. It shall be unlawful for any person to process or manufacture marijuana concentrate anywhere in the City of Delta

B. It shall be unlawful for any person who owns, manages, operates, or otherwise controls the use of any premises anywhere in the City of Delta to allow marijuana concentrate to be processed or manufactured on the premises.

C. It shall be unlawful for any person to use food based or water extractions or flammable liquids as a means of producing marijuana concentrate.

D. For the purpose of this section:

“Marijuana” means all parts of the plant of the genus cannabis whether growing or not, including but not limited to the seeds, leaves, buds, flowers, and any mixture or preparation thereof, without regard for cannabinoid concentration levels.

“Marijuana Concentrate” means hashish, cannabinoids, or any alkaloid, salt, derivative, preparation, compound, or mixture, whether natural or synthesized, of cannabinoids.

“Food Based Extraction” means producing marijuana concentrate by extracting cannabinoids from marijuana through the use of propylene glycol, butter, olive oil, or other cooking fats.

“Water based Extraction” means of producing marijuana concentrate by extracting cannabinoids from marijuana through the use of only water, ice or dry ice.

“Flammable Liquid” means a liquid that has a flash point below 100 degree Fahrenheit and includes all forms of alcohol and ethanol.

MEMO

To: Delta City Council
Justin Clifton, City Manager



From: Robert Thomas, Chief of Police

Date: February 3, 2015

Subject: Pawnbrokers

Office of the Chief of Police

Recommendation:

Review and discuss the City of Delta Pawnbroker ordinance.

Background:

In 1984, the City of Delta established a Pawnbroker Ordinance. The Delta Police Department and City Clerk would like to reevaluate the license application and approval processes, background checks, denial-suspension, and revocation of a pawnbroker license, and other rules and regulations concerning Pawnbrokers.

Cost:

Not Applicable

Alignment with Strategic Planning:

A revised ordinance would be in alignment with the City's comprehensive plan in which public safety is committed to the preservation of life, property and environment.

Actions To Be Taken if Approved:

Provide recommendations on how to proceed.

MEMO

To: City Council
From: Justin Clifton, City Manager
Date: February 3, 2015
Subject: E-cigarettes Ordinance



Office of the City Manager

Staff would like to discuss with Council the possibility of changing the City Code so that e-cigarettes and other vaporizing tobacco use are treated like other means of consuming tobacco like smoking.

This issue came about because a patron was using an e-cigarette device at the Rec Center pool. After being told he could not smoke at the pool he send a strongly worded email to the Parks and Rec Director explaining that “vaporizing” is not “smoking” and therefore could not be regulated the same way. This recent technology is not covered in our current regulations. The proposed draft ordinance is meant to add to the definition of smoking to include vaporizing activity, known as “vaping”. The reason to prohibit this activity is both to address public nuisance and potential public health.

There are likely some opponents to this type of ordinance as advocates of e-cigarettes claim that the vapor is not smoke and does not pose the same safety risks smoking. Those opponents might claim this ordinance represents an excessive restriction of personal liberty in the name of little or no public health risk. However, staff feels the use of vaporizing devices does pose potential health risks. Evidence suggests that there are potentially harmful toxins released in vapor. Furthermore, many studies suggest the true impact from vaping is not yet known and recently emerging studies have contradicted earlier ones. While this science is emerging and not totally conclusive, treating this different type of tobacco use consistent with smoking seems reasonable. Numerous other states and communities have taken similar action to the one proposed with the enclosed draft ordinance. Even if there are no safety risks, the vapors released from e-cigarettes is a potential public nuisance. For these reasons, staff further suggests treating “vaping” and smoking the same from the standpoint of public policy is appropriate.

**CITY OF DELTA, COLORADO
ORDINANCE 2015-__**

AN ORDINANCE OF THE DELTA CITY COUNCIL
AMENDING CHAPTER 8.36 TO RESTRICT THE USE OF ELECTRONIC
CIGARETTES AND OTHER SMOKING DEVICES.

WHEREAS, the City of Delta (“City”) has prohibited smoking in indoor areas in order to reduce the levels of exposure to environmental tobacco smoke; and

WHEREAS, since Chapter 8.36 was adopted, electronic cigarettes and other smoking devices (“e-cigarettes”) have become an increasingly popular method of smoking tobacco and nicotine products; and

WHEREAS, environmental tobacco smoke and the vapors emitted from e-cigarettes can be a nuisance to others and interfere with the public’s use and enjoyment of public places; and

WHEREAS, the current language of Chapter 8.36 does not address or incorporate e-cigarettes, which limits the City’s ability to utilize the smoking ban to eliminate the nuisance caused by the use of e-cigarettes in its facilities and other public areas; and

WHEREAS, the City’s citizens remain susceptible to the negative impacts of smoking e-cigarettes indoors and in public areas; and

WHEREAS, C.R.S. § 25-14-207 authorizes a local jurisdiction such as the City to enact ordinances or regulations regarding smoking indoors and indoor air quality; and

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

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

WHEREAS, the City Council has carefully considered the proposed amendment to Chapter 8.36 and the impacts of e-cigarettes on the use and enjoyment of public areas, the orderly operation of City facilities, and public safety and welfare in general, and has determined that the smoking of e-cigarettes should be prohibited to the same extent as traditional cigarettes and other tobacco products.

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

1. Recitals. The foregoing recitals are incorporated herein as findings and determinations of the Delta City Council.

2. Amendment. The City Council hereby amends the Delta Municipal Code by amending certain provisions of Chapter 8.36. Those provisions of Chapter 8.36 not explicitly changed herein shall remain in full force and effect. The amendments to Chapter 8.36 approved by this Ordinance are indicated in **bold** and **underlined** and are as follows:

Chapter 8.36 Control of Smoking

8.36.020 Definitions

(7) “Environmental tobacco smoke,” “ETS,” or “secondhand smoke” means the complex mixture formed from the **gases, particles, and vapors released during the burning, heating, or vaporization** of a tobacco, **nicotine or marijuana** product, also known as “sidestream smoke,” and **such gases, particles, and vapors** exhaled by the smoker.”

(14) **“Smoke” or “Smoking”** means the burning, **heating, electrical ignition, or vaporization** of a lighted cigarette, **electronic smoking device**, cigar, pipe, or any other matter, substance, **or instrument** that contains tobacco, **nicotine, or marijuana**.

(15) “Tobacco” means cigarettes, cigars, cheroots, stogies, and periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff and snuff flour; cavendish; plug and twist tobacco; fine-cut and other chewing tobacco; shorts, refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or for smoking in a cigarette, pipe, **electronic smoking device**, or otherwise, or both for chewing and smoking. “Tobacco” also includes cloves and any other plant matter or product that is packaged for smoking.

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

INTRODUCED a second time at a regular meeting of the Council of the City of Delta, Colorado on _____, 2014, read by title and number, passed without amendment, approved, and ordered published as required by the Charter.

CITY OF DELTA, COLORADO

By: _____
Ed Sisson, Mayor

ATTEST:

Jolene Nelson, City Clerk

CERTIFICATE

STATE OF COLORADO)
) ss.
CITY OF DELTA)

I, Jolene E. Nelson, City Clerk of the City of Delta, Colorado, do hereby certify that the above and foregoing ordinance was introduced, read in full, and passed on first reading at a regular meeting of the City Council of the City of Delta on _____, and published in the Delta County Independent, a newspaper of general circulation published in the City of Delta in its issue of _____, and was finally adopted and approved at a regular meeting of the City Council on _____, and ordered published as Ordinance No. _____, Series of 2015, of said City as provided by law.

IN WITNESS WHEREOF, I have hereunto set my hand and the Seal of the City of Delta, Colorado, this ____ day of _____, 2015.

(SEAL)

City Clerk