

Mayor Ed Sisson called the meeting to order at 7:00 p.m. Also present were Councilmembers Robert Jurca, Mary Cooper, and Ray Penick along with Interim City Manager Glen Black and City Attorney Nicole Garrimone. Absent was Councilmember Bill Raley. A meeting notice was posted in the south window at City Hall at least twenty-four hours prior to the meeting.

**Pledge of Allegiance**

The Mayor led everyone present in the Pledge of Allegiance.

**Changes to the Agenda**

There were none.

**Minutes**

It was moved by Councilmember Penick and seconded by Councilmember Jurca to approve the minutes of the May 19, 2015 regular meeting, the May 20, 2015 special meeting, the May 21, 2015 special meeting and the May 26, 2015 special meeting as submitted by the Clerk. All in favor, motion carried.

**Citizen Comments**

There were none.

**Public Hearing: Retail Liquor Store License Application; HOGO Liquors, LLC dba Whiskey's**

City Attorney Nicole Garrimone stated that Council will be considering a liquor license application. The process does require a public hearing at which interested parties can provide testimony and be cross examined. There are few findings that Council will need to make when they choose to grant or deny the application which are:

- Reasonable requirements of the neighborhood of the liquor store.
- The desires of the adult inhabitant of the neighborhood.
- Other reasonable restrictions of the neighborhood such as zoning.

Ms. Garrimone recommended that each individual that addresses Council state whether they are inhabitants of the City of Delta. The public hearing will need to be opened, testimony given and then close the public hearing at which time Council can make their determination or they can choose to wait 30 days.

The Mayor recessed the regular meeting and convened a public hearing

Councilmember Penick stated that he is related to the applicant; therefore, he will be leaving the Council Chambers and returning after this item has concluded.

The Clerk reported that HOGO Liquors, LLC dba Whiskey's has applied for a Retail Liquor Store License. She stated that the following are the findings after review of the application:

- The owners of HOGO Liquors, LLOC are Matthew and Susie Horn.

**Regular Meeting, Delta City Council, June 2, 2015 (cont.)**

**Public Hearing: Retail Liquor Store License Application; HOGO Liquors, LLC dba Whiskey's (cont.)**

- Both have been subject to a criminal records check through the Colorado Bureau of Investigation and the results showed:
  - Matthew Horn – no record
  - Susie Horn showed of offense date of April 24, 2011 for the following:
    - Driving under the influence/ misdemeanor
    - Driving under the influence per se/misdemeanor
    - Traffic Offense/stop sign violation
- The location of the business is 1100 Highway 92 in Delta.
- There has not been a denial of an application for a Retail Liquor Store License at the location for which the application is made.
- The applicant has provided proof of possession of the premises that is proposed to be licensed.
- Selling Spirituous liquors in the manner proposed in the application is not in violation of the zoning, fire, and other applicable laws of the City of Delta, or any laws, rules or regulations of the City/County Health Department or the laws of the State of Colorado. The applicant has been in contact with the City's Community Development Department.
- The property does not appear to be within 500 feet from any public or parochial school or the principal campus of any college, university or seminary.
- A sign was posted at the site as required by law.
- A public notice was in the Delta County Independent as required by law.
- Within the corporate limits of the City of Delta, there are the following existing liquor outlets:
  - Beer and Wine 1
  - Club 1
  - Hotel & Restaurant 9
  - Retail Liquor Store 5
  - Tavern 3
  - 3.2% Beer Off Premises 4
  - 3.2% Beer On Premised 1

The Clerk also reported that the applicants have submitted a petition with 148 signatures in favor of the proposed liquor store.

Matthew Horn, 8194 Horn Rd, Delta, stated that he and his wife, Susie Horn, want to open this liquor store as a family business. He has been in the industry for 15 years and has a lot of knowledge about the industry. This will be an opportunity for him to provide for his family and run his own business.

Curt Smelser 550 Palmer Street, Suite 201, stated that he is with the law firm of Brown & Camp. He is representing Toni Lackey who is the owner of Moonshine Liquors. Ms. Lackey would like to go on record that she opposes the application. Not that she is opposed to the liquor business because she is in the liquor business. They are concerned of the timing of it with the conditions that are before us in the City of Delta now.

**Regular Meeting, Delta City Council, June 2, 2015 (cont.)**

**Public Hearing: Retail Liquor Store License Application; HOGO Liquors, LLC dba Whiskey's (cont.)**

Mr. Smelser stated that Council was presented the criterion that needs to be used to make a decision on this matter. The burden was on the applicant to make the case that it is appropriate to do so. He believes that they have not done that. He looked at the criteria that the State requires that the City consider under CRS 12-47-312. There has to be an established need. The need has not been established.

Mr. Smelser presented information regarding the population of the State of Colorado, County of Delta and the City of Delta. He reported that the City of Delta has had a 4.2% decline in population since 2009. He also presented how many liquor stores there are in the State, County of Delta and City of Delta stating that Delta County is well served with liquor stores. The density of liquor stores is a reliable measure of neighborhood need that may be considered in new applications. In addition to the adequate supply of liquor stores, and declining population, the industry faces the possibility of an even steeper business decline after 2016. According to published reports, the liquor industry is facing a statewide initiative to be placed on the ballot in 2016. The initiative would authorize the sale of liquor in large grocery chain stores.

Mr. Smelser does not believe that criteria have been presented for Council to approve the application. He suggested Council take all this into consideration and deny the application. He presented Council with a letter as well as a petition opposing the application.

Josh Hernandez, 1709 Pioneer Circle, stated he is in favor of the liquor store. It is a good location on and off the highway. He has known Matt and Susie for several years and they are both hard workers and will make this business succeed.

Mark Bennett, 38721 Yoman Road in Crawford, he has been a friend and co-worker of Matt for several years. He is in favor of the liquor license. This has been Matt's dream for a while now. The new store will help out with the tax revenue for Delta as well as the employment status.

Keith Josse, 8689 2100 Road, Austin, owner of D&B Liquors, stated that this is not Matt Horn against the liquor stores of Delta. How many stores is Council going to allow? Last year at this time there were two applicants. One of the applicants purchased one in Montrose and the other decided to not proceed. Liquor stores struggle, banks don't even want talk to the liquor store owners. You can't sell your stores for what you have in it. If the law passes, there will be more liquor stores. He presented an example of Fargo, South Dakota. He has known Matt for a while and he is a good guy. This is not five liquor stores against him, this if five liquor stores wanting to know what their future is.

Mary Vigil, 434 Grand Blvd, stated that she has a different outlook on this business Matthew and Susie are looking at opening. She has been friends with them for over 14 years, Susie has been an employee on and off for over 10 years. They are the hardest working couple she knows. Ms. Vigil stated that she just remodeled a building to move her business to. When she was looking for a building, there is not much to look at in Delta. The buildings establishments are going downhill. She suggested that may be a reason why the population is declining. Matt and Susie's new business is going to help beautify the City and bring in more tax dollars. She wants to see our community grow. She is in favor of the new liquor store.

**Regular Meeting, Delta City Council, June 2, 2015 (cont.)**

**Public Hearing: Retail Liquor Store License Application; HOGO Liquors, LLC dba Whiskey's (cont.)**

Lena McPherson, 720 E. 3<sup>rd</sup> Street, as Council may remember she was the owner of Critter's Sport Bar and Grill and operated it for 10 years. She is in favor of the new liquor store. At one time Council had stated that competition is good to help the community grow and bring in more revenue. Delta needs this and it is a perfect location. People will still do business with the other liquor stores.

Matthew Horn requested to present rebuttal testimony. He stated he believes with the petition that was submitted the need was established. He stated that one thing he wanted to establish is that he is going to be doing something that nobody in town is cable of doing because of their size and location. The stores in Delta are too small; they can't house the product that is available. He also commented on the statement that this is not Matt Horn against the liquor stores. One year ago he was the only person present at the hearing for the liquor store next to Safeway. He would like his chance to make a better business for Delta and for himself.

Russ Oak, 360 Howard St., business owner in Delta County, respectfully disagreed with the points of decline in the City. He stated it's a slippery slope to close potential businesses. In a case like this, if Delta starts to close the doors more and more it will affect the population. He commented on other businesses that have thrived with competition. Matthew and Susie both have integrity. He is in favor of the new store as well.

The Mayor called for additional comments and when there were none he closed the public hearing and reconvened the regular meeting.

Councilmember Cooper questioned the City Attorney about the petitions that were submitted. She stated that the petition submitted by the applicant have addresses and dates. The petition that was submitted by Mr. Smelser does not have addresses, etc.

Ms. Garrimone stated that Council has to consider the needs of the adult inhabitants of the neighborhood, which has been established in the past as the city limits of Delta. Therefore, Council would look at the adult inhabitants of the city meaning residents not necessarily business owners.

Councilmember Cooper stated she does not want to just throw them out; however, there is no way to validate the signatures.

Mayor Sisson stated that Council needs to encourage businesses.

Councilmember Jurca stated that he likes the location; however, he is struggling with the need.

Mayor Sisson stated that there is a lot of competition. They are taking a risk and he applauds the applicant for trying.

Councilmember Cooper suggested taking a look at other types of businesses and ask yourself whether they would deny a business trying to open in Delta. She believes competition is healthy.

**Regular Meeting, Delta City Council, June 2, 2015 (cont.)**

**Public Hearing: Retail Liquor Store License Application; HOGO Liquors, LLC dba Whiskey's (cont.)**

Councilmember Cooper stated that the criteria that has been presented meets the reasonable needs and desires of the neighborhood and the application is within zoning requirements; therefore she moved to approve the Retail Liquor Store application for HOGO, LLC dba Whiskey's. The motion was seconded by Councilmember Jurca. Mayor Sisson called for a roll call vote: Councilmember Cooper, aye; Jurca, aye and Sisson aye. Motion carried.

**Public Hearing: Special Events Permit Application; Delta Area Chamber of Commerce 680 1800 Road**

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

The clerk reported that the Delta Area Chamber of Commerce has submitted a Special Events Permit application for the rodeo event to take place during Deltarado Days on July 18, 2015. She stated that the application is complete and all fees have been paid. A sign was posted at the site as required by law and no comments have been received.

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

Leslie Workman, Director of Delta Area Chamber of Commerce, reported that in the past the beer garden was down at Cleland Park. They are moving it up to the roundup club for the simple fact that there will be various activities throughout the day up there. There will still be vendors at Cleland.

It was moved by Councilmember Penick and seconded by Councilmember Cooper to approve the Special Events Permit application for the Delta Area Chamber of Commerce for July 18, 2015. All in favor, motion carried.

**Public Hearing: Special Events Permit Application; Delta Area Chamber of Commerce 4<sup>th</sup> Street Between Main and Meeker Streets**

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

The clerk reported that the Delta Area Chamber of Commerce has submitted a Special Events Permit application for the street dance event to take place during Deltarado Days on July 17, 2015. She stated that the application is complete and all fees have been paid. A sign was posted at the site as required by law and no comments have been received.

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

It was moved by Councilmember Jurca and seconded by Councilmember Cooper to approve the Special Events Permit application for the Delta Area Chamber of Commerce for July 17, 2015 as presented. All in favor, motion carried.

## **Regular Meeting, Delta City Council, June 2, 2015 (cont.)**

### **Beer & Wine License Renewal; House of Chin**

The clerk stated that House of Chin has submitted their Beer & Wine License renewal. The application is complete and all fees have been paid. The police department is recommending renewal.

It was moved by Councilmember Cooper and seconded by Councilmember Penick to approve the House of Chin Beer & Wine License renewal. All in favor, motion carried.

### **3.2% Beer Off Premises Renewal; Walmart**

The clerk also stated that Walmart has submitted their 3.2% Beer Off Premises renewal. The application is complete and all fees have been paid. The police department is recommending renewal.

It was moved by Councilmember Jurca and seconded by Councilmember Penick to approve the 3.2% Beer Off Premises renewal for Walmart. All in favor, motion carried.

### **Delta Housing Authority Board Appointment**

The clerk stated that the Delta Housing Authority Board has a vacancy. Staff has advertised for the position and has received one application. She also stated that she has included with her memo the current bylaws for the board. The applicant does not live in the City; therefore, staff has reviewed the bylaws and the state statutes to determine if the applicant is eligible. There is nothing in the bylaws or the statutes that state the applicant has to reside in city limits. Staff believes Council has the following options:

- Review application and appoint applicant;
- Set time to interview the applicant;
- Continue advertising for the position for some time period

Mayor Sisson stated that he knows Tracy German. She served on the Chamber board and he believes she is very well qualified for the position.

Councilmember Jurca stated the Delta Housing Authority Board does not just serve the City of Delta. They are now serving a five county area. The bylaws don't mention anything about having to live in city limits and he sees no problem with it.

It was moved by Councilmember Cooper seconded by Councilmember Jurca to appoint Tracy German to the Delta Housing Authority Board. All in favor, motion carried.

### **Ordinance #4, 2015; First Reading**

#### **Zoning Amendment for Lots 19-26, Block 7 Town of Delta (632, 640 & 654 Main Street; two of the parcels are not addressed) from B-1 to B-2**

Ordinance #4, 2015

AN ORDINANCE OF THE CITY OF DELTA, COLORADO,  
AMENDING THE ZONING DESIGNATION OF Block 7, Lots 19-

**Regular Meeting, Delta City Council, June 2, 2015 (cont.)**

**Ordinance #4, 2015; First Reading**

**Zoning Amendment for Lots 19-26, Block 7 Town of Delta (632, 640 & 654 Main Street; two of the parcels are not addressed) from B-1 to B-2 (cont.)**

26 Original Town of Delta – including 632-640 & 654 Main Street  
from B-1, Business District to B-2, Business District

was read by the Clerk.

It was moved by Councilmember Jurca and seconded by Councilmember Cooper to adopt Ordinance #4, 2015 of First Reading. Roll call vote: Councilmember Cooper, aye; Jurca, aye; Penick, aye and Sisson, aye. Motion carried.

**City Attorney Comments**

There were none.

**City Manager Comments**

Manager Black thanked Nicole Garrimone for attending the meeting this evening.

He reported on the following items:

- Palmer Street has been paved.
- Thanked the Public Works Department for working on a water break Friday evening until early Saturday morning.
- City Manager interviews next Friday. A tentative schedule was presented for Council to review.
- Colorado Cities and Town week is September 14<sup>th</sup> – 20<sup>th</sup>.
- The golf course held a junior golf clinic and had 30 participants.

**Councilmember Comments**

Councilmember Cooper reminded everyone that the next Council meeting is on Monday, June 15<sup>th</sup>. She also complimented the staff at the recreation center.

Councilmember Penick stated that he has received compliments on how staff handled the closing of Main Street.

Mayor Sisson updated everyone on Councilmember Raley. He complimented the parks department staff in spraying weeds out in North Delta. He also stated that he worked with a police officer who was very courteous.

The meeting was adjourned at 7:51 p.m.

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Jolene E. Nelson, CMC, City Clerk