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

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

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

**Delta City Council  
Regular Meeting**

**February 17, 2015  
7:00 p.m.**

- A. Pledge of Allegiance**
- B. Changes to the Agenda**
- C. Minutes**
- D. Citizen Comments**
- E. Public Hearing: Special Events Permit Application; Kiwanis**
- F. Tavern Liquor License Approval; CB's Tavern**
- G. Ordinance #2, 2015; First Reading  
E-Cigarettes**
- H. Ordinance #3, 2015; First Reading  
Juvenile Curfew**
- I. Award Storm Water Project**
- J. Vehicle/Equipment Purchase**
- K. City Attorney Comments**
- L. City Manager Comments**
- M. Councilmember Comments**
- N. Executive Session**  
For a conference with the City Attorney for the purpose of receiving legal advice on specific legal questions under CRS Section 24-6-402(4)(b), for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators, under CRS Section 24-6-402(4)(e).
- O. Approval of Mediation Agreement**

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. A meeting notice was posted in the south window at City Hall at least twenty-four hours prior to the meeting.

**Pledge of Allegiance**

The Mayor led everyone present in the Pledge of Allegiance.

**Changes to the Agenda**

There were none.

**Minutes**

It was moved by Councilmember Penick and seconded by Councilmember Raley to approve the minutes of the January 20, 2015 regular meeting as submitted by the Clerk. All in favor, motion carried.

**Citizen Comments**

There were none.

**Welcome to Ute Jantz, Delta County Housing Authority**

Councilmember Robert Jurca introduced Ute Jantz the new Executive Director for the Delta County Housing Authority.

Ms. Jantz thanked everyone for the warm welcome.

**Retail Liquor Store License Renewal; Uptown Wines, LLC**

The Clerk explained that Uptown Wines, LLC has submitted their retail liquor store 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 Jurca to approve the retail liquor store license renewal for Uptown Wines, LLC. All in favor, motion carried.

**Vehicle/Equipment Purchases**

City Manager Justin Clifton stated that there are a number of vehicle purchases included with this request ranging from pickups, a sedan and a mini track loader.

Councilmember Penick questioned if the extended warranty worth the cost.

## **Regular Meeting, Delta City Council, February 3, 2015 (cont.)**

### **Vehicle/Equipment Purchases (cont.)**

Fleet Manager Rod Myers stated with the computer systems in the vehicles the diagnostic equipment is useful. He explained that the city shop does not have the diagnostic equipment; therefore, the warranties are helpful with cost.

Councilmember Jurca questioned if there were other brands that were looked at for the sedan.

Mr. Myers stated that he checked on 10 hybrid models and 11 fuel efficient models, these are the models that came back with the bids.

Mayor Sisson commented that all purchases listed are under budget, but one.

Councilmember Penick questioned if the mini track loader included tools.

Mr. Myers stated that it included the following attachments: backhoe, trencher, and bucket. Staff will look at what attachments are needed yearly and budget for those additional attachments.

There was discussion regarding scheduling the equipment for all departments.

Councilmember Jurca questioned if staff is considering changing the fleet to use only one manufacturer.

Mr. Myers reported that currently staff is looking at the low bid.

It was moved by Councilmember Penick and seconded by Councilmember Raley to approve the purchase of the following equipment: Ford F150 for \$23825.00, Dodge 1500 Ram for \$21494.00, Ford Fusion for \$18900.00 and BobCat MT52 Mini Track Loader for \$30560.00. All in favor, motion carried.

### **Tri County Water Acquisitions**

Manager Clifton stated that previously there was reference of the intent for the City to purchase customers from Tri County Water. This is a proposal to acquire 14 taps.

Utilities Director Steve Glammeyer commented that having the service area acquisition agreement has been extremely helpful with acquiring customers from Tri County Water. In this instance, Tri County came to the City. There is \$40,000 budgeted to acquire the taps.

Councilmember Penick questioned how the water bills will be affected.

Mr. Glammeyer stated that the City is not competitive with Tri County. Tri County bills by-monthly; however, the consumption charge is about the same. Residents will see a difference in their bills.

It was moved by Councilmember Pencik and seconded by Councilmember Jurca to approve the Tri County agreement to purchase customers on the west side of Pioneer Road as listed in the

## **Regular Meeting, Delta City Council, February 3, 2015 (cont.)**

### **Tri County Water Acquisitions (cont.)**

assignment of water service rights and facilities for the amount of \$24,660. All in favor, motion carried.

### **City Manager Contract Amendment**

Manager Clifton stated this comes up as a result of the last couple of meetings where Council had completed the City Manager's performance evaluation. Council has recommended a \$5000 increase to the base salary as well as including one additional week of paid time off.

Councilmember Penick reported that the wage increase is a result of the wage salary that was completed. The amount listed will bring the City Manager's pay up to market.

It was moved by Councilmember Raley and seconded by Councilmember Penick to accept the contract amendment with the City Manager for a total increase of \$5000 to the base pay and an additional week of paid time off. Voting aye: Councilmembers Cooper, Penick, Raley and Sisson. Voting nay: Councilmember Jurca.

### **City Attorney Comments**

There were none.

### **City Manager Comments**

Manager Clifton invited Council to attend the presentation of the new sewer camera.

He also stated that staff is in the process of recruiting a golf professional. Staff feels it is important to build the staff around that position. Meetings have been held with the members of the golf course advisory board and with other stake holders to really look at what those positions should look like. The job description that was created is pretty flexible. He explained the process that staff is using in hiring for the position. The boundaries for the salaries will be within the budgeted amount.

### **Councilmember Comments**

Councilmember Cooper stated that Project 7 has decided to remain without fluoride in the water. She also commented on the CML executive board meeting she attended. She suggested going to the state's website to view the legislature upcoming bills.

Councilmember Raley reported on the Region 10 meeting. He asked Mr. Clifton to provide an update on broadband.

Mr. Clifton updated the council on the progress of the proposed broadband. Mr. Clifton stated that there are numerous challenges. You have a region of separate entities looking to participate in a regional program to build the infrastructure. The question then becomes, who owns it? It's important who the owner becomes. A plan has now been created to deploy broadband throughout Delta County and the cost is pretty reasonable. The State has



Item D:

Citizen Comments



# MEMO

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To: Mayor and City Council  
From: Jolene E. Nelson, City Clerk  
Date: February 17, 2015  
Subject: Kiwanis Club Special Events Permits



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*Office of the City Clerk*

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**Recommendation:**

Staff recommends approving an application for a Special Events Liquor Permit submitted by the Kiwanis Club.

**Background:**

The Kiwanis Club has submitted an application for Special Events Liquor Permits for their event to be held at Bill Heddles Recreation Center on March 14, 2015. The application specifies that they plan to sell alcoholic beverages from 3:00 p.m. to 9:00 p.m. The application is 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 applications, and the Clerk will mail them to the State, who will review them and issue the permits.

## 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 checked="" type="checkbox"/> SOCIAL | <input type="checkbox"/> ATHLETIC                              | <input type="checkbox"/> PHILANTHROPIC INSTITUTION           |
| <input 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                 |                                                              |

<b>LIAB TYPE OF SPECIAL EVENT APPLICANT IS APPLYING FOR:</b> 2110 <input checked="" type="checkbox"/> MALT, VINOUS AND SPIRITUOUS LIQUOR \$25.00 PER DAY 2170 <input type="checkbox"/> FERMENTED MALT BEVERAGE (3.2 Beer) \$10.00 PER DAY	<b>DO NOT WRITE IN THIS SPACE</b> LIQUOR PERMIT NUMBER
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1. NAME OF APPLICANT ORGANIZATION OR POLITICAL CANDIDATE <del>Kiwanis Club</del> Delta Kiwanis Club Foundation	State Sales Tax Number (Required) 29944629
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2. MAILING ADDRESS OF ORGANIZATION OR POLITICAL CANDIDATE (include street, city/town and ZIP) P.O. Box 1153 Delta, Co 81416	3. ADDRESS OF PLACE TO HAVE SPECIAL EVENT (include street, city/town and ZIP) 531 North Palmer Drive Delta, Co 81416
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NAME	DATE OF BIRTH	HOME ADDRESS (Street, City, State, ZIP)	PHONE NUMBER
4. PRES./SEC'Y OF ORG. or POLITICAL CANDIDATE Calvin C. Spras		940 Willow Wood Ln Delta, Co 81416	970-360-2950
5. EVENT MANAGER Calvin C. Spras			
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 3/14/2015	Date	Date	Date
Hours From 3 p.m. To 9 p.m.	Hours From .m. To .m.	Hours From .m. To .m.	Hours From .m. To .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>Calvin C. Spras</i>	TITLE Treasurer	DATE 2/2/2015
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**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

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To: Mayor and City Council  
From: Jolene E. Nelson, City Clerk  
Date: February 17, 2015  
Subject: Tavern Liquor License Renewal; CB's Tavern



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*Office of the City Clerk*

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**Recommendation:**

Staff recommends approval of the Tavern License Renewal for Cboydbusi, LLC dba CB's Tavern located at 344 Main Street. The Police Department's report and recommendation is attached.

**Background:**

The current liquor license expires April 25, 2015.

**Cost:**

There is no cost to the City. The applicant has paid the \$500 renewal fee to the State and the City renewal fee of \$150 as well as the City's \$500 liquor occupation tax.

**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 applications, and the Clerk will mail them to the State, who will review them and issue the permits.

**LIQUOR OR 3.2 BEER LICENSE  
 RENEWAL APPLICATION**

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

CB'S TAVERN  
 334 MAIN STREET  
 DELTA CO 81416-1837

Make check payable to: Colorado Department of Revenue. The State may convert your check to a one-time electronic banking transaction. Your bank account may be debited as early as the same day received by the State. If converted, your check will not be returned. If your check is rejected due to insufficient or uncollected funds, the Department may collect the payment amount directly from your banking account electronically.

**PLEASE VERIFY & UPDATE ALL INFORMATION BELOW**

**RETURN TO CITY OR COUNTY LICENSING AUTHORITY BY DUE DATE**

Licensee Name CBOYDBUSI LLC		DBA CB'S TAVERN		
Liquor License # 12914030000	License Type Tavern (city)	Sales Tax License # 12914030000	Expiration Date 4/25/2015	Due Date 3/11/2015
Street Address 334 MAIN ST DELTA CO 81416-1837				Phone Number
Mailing Address 334 MAIN STREET DELTA CO 81416-1837				
Operating Manager	Date of Birth	Home Address		Phone Number

- Do you have legal possession of the premises at the street address above?  YES  NO  
 Is the premises owned or rented?  Owned  Rented\* \*If rented, expiration date of lease 3/31/2016
- Since the date of filing of the last annual application, has there been any change in financial interest (new notes, loans, owners, etc.) or organizational structure (addition or deletion of officers, directors, managing members or general partners)? If yes, explain in detail and attach a listing of all liquor businesses in which these new lenders, owners (other than licensed financial institutions), officers, directors, managing members, or general partners are materially interested.  YES  NO  
**NOTE TO CORPORATION, LIMITED LIABILITY COMPANY AND PARTNERSHIP APPLICANTS:** If you have added or deleted any officers, directors, managing members, general partners or persons with 10% or more interest in your business, you must complete and return immediately to your Local Licensing Authority, Form DR 8177: Corporation, Limited Liability Company or Partnership Report of Changes, along with all supporting documentation and fees.
- Since the date of filing of the last annual application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been convicted of a crime? If yes, attach a detailed explanation.  YES  NO
- Since the date of filing of the last annual application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been denied an alcohol beverage license, had an alcohol beverage license suspended or revoked, or had interest in any entity that had an alcohol beverage license denied, suspended or revoked? If yes, attach a detailed explanation.  YES  NO
- Does the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) have a direct or indirect interest in any other Colorado liquor license, including loans to or from any licensee or interest in a loan to any licensee? If yes, attach a detailed explanation.  YES  NO
- SOLE PROPRIETORSHIPS, HUSBAND-WIFE PARTNERSHIPS AND PARTNERS IN GENERAL PARTNERSHIPS:** Each person must complete and sign the DR 4679: Affidavit – Restriction on Public Benefits (available online or by calling 303-205-2300) and attach a copy of their driver's license, state-issued ID or valid passport.

**AFFIRMATION & CONSENT**  
 I declare under penalty of perjury in the second degree that this application and all attachments are true, correct and complete to the best of my knowledge.

Type or Print Name of Applicant/Authorized Agent of Business CARRIE E BOYD	Title OWNER
Signature Carrie E. Boyd	Date 1/7/2015

**REPORT & APPROVAL OF CITY OR COUNTY LICENSING AUTHORITY**

The foregoing application has been examined and the premises, business conducted and character of the applicant are satisfactory, and we do hereby report that such license, if granted, will comply with the provisions of Title 12, Articles 46 and 47, C.R.S. **THEREFORE THIS APPLICATION IS APPROVED.**

Local Licensing Authority For	Date
Signature	Title
	Attest



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**LIQUOR LICENSE RENEWAL RECOMMENDATION**

To: City Council

Re: Application of CBoydbusi LLC  
DBA: CB's Tavern

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The report sheets show the following liquor violations for the past twelve months for the above named applicant:

No liquor violations in the past twelve months.

Remarks:

Police Department recommendation:

Recommend Liquor license renewal.

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Robert Thomas, Chief of Police

# MEMO

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To: City Council  
From: Justin Clifton, City Manager  
Date: February 17, 2015  
Subject: Ordinance #2, 2015



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*Office of the City Manager*

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**Recommendation:**

Staff recommends Council approve Ordinance #2, 2015 E-Cigarettes.

**Background:**

This item was discussed at a recent Council work session. As Council will recall, staff has encountered difficulty with citizens wanting to use e-cigarette devices in public facilities. Staff presented an ordinance that prohibited the use of e-cigarettes but Council felt that the language might be inadequate to preclude certain non-nicotine uses of e-cigarette (vaporizer) devices. The enclosed draft ordinance has added language in section 8.36.020 (7) defining environmental tobacco smoke to include, use of tobacco, "nicotine, marijuana, or any other substance."

**Cost:**

NA

**Alignment With Strategic Planning:**

City Council is responsible for passing ordinances in the interest of health and safety.

**Actions To Be Taken if Approved:**

The ordinance will be brought back for second reading, published and adopted.

**CITY OF DELTA, COLORADO  
ORDINANCE #2, 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, the Charter of the City of Delta and the City Council’s municipal police powers permit 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

### 8.36.010 Legislative Declaration

The City of Delta hereby finds and determines that it is in the best interest of the people of this City to protect nonsmokers from involuntary exposure to environmental tobacco smoke in most indoor areas open to the public, public meetings, food service establishments, and places of employment. The City further finds and determines that a balance should be struck between the health **and environmental** concerns of nonconsumers of tobacco products and the need to minimize unwarranted governmental intrusion into, and regulation of, private spheres of conduct and choice with respect to the use or nonuse of tobacco products in certain designated public areas and in private places. Therefore, the City hereby declares that the purpose of this Chapter is to preserve and improve the health, comfort, and environment of the people of this City by limiting exposure to **environmental** tobacco smoke.

### 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 tobacco, **nicotine, marijuana, or any other substance or** product, also known as “sidestream smoke,” and **such gases, particles, and vapors** exhaled by the smoker.

**(9.5) “Marijuana” means all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marihuana concentrate.**

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

(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, **vaporizer or other 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 February 17, 2015, 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.

CITY OF DELTA, COLORADO

By: \_\_\_\_\_  
Edward C. Sisson, Mayor

ATTEST:

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

INTRODUCED a second time at a regular meeting of the Council of the City of Delta, Colorado on \_\_\_\_\_, 2015, read by title and number, passed without amendment, approved, and ordered published as required by the Charter.

CITY OF DELTA, COLORADO

By: \_\_\_\_\_  
Edward C. Sisson, Mayor

ATTEST:

\_\_\_\_\_  
Jolene E. 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

MEMO

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To: Delta City Council  
Justin Clifton, City Manager



From: Robert Thomas, Chief of Police

Date: February 17, 2015

Subject: Juvenile Curfew Ordinance

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*Office of the Chief of Police*

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**Recommendation:**

The City of Delta Police Department is requesting Council approve a “new” Juvenile Curfew 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 Juvenile Curfew in support of the health, safety and welfare of our children.

**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 protecting children in our community.

**Actions To Be Taken if Approved:**

The Delta Police Department shall begin enforcing the Juvenile Curfew Ordinance.

Ordinance #\_\_\_\_, 2015

AN ORDINANCE OF THE CITY OF DELTA, COLORADO,  
REPELAING AND REPLACING SECTION 9.04.250 OF  
THE DELTA MUNICIPAL CODE

WHEREAS, the adoption of Article II, Section 3 of the Colorado Bill of Rights states the freedom of movement of a juvenile is not a fundamental right. Therefore, individual cities and towns within the State of Colorado may set and enforce curfews for juveniles (People in Interest of J.M., 768 P.2d 219 (Colo. 1989); and

WHEREAS, following its process of review, staff has made recommendations to the City Council for revising the juvenile loitering ordinance; and

WHEREAS, the City Council finds the recommendation of staff to be reasonable and necessary for the promotion of public health, safety and welfare.

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.** Section 9.04.250 of the Delta Municipal Code is hereby repealed and replaced as follows:

**9.04.250 Juvenile Curfew**

A. No juvenile under eighteen years of age shall be or remain upon any public street, sidewalk, or any other public place or right of way within the City of Delta between midnight and 5 a.m., except as provided in Subsection (C) of this section.

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 eighteen years to knowingly permit or allow such juvenile to remain upon any public street, sidewalk or public place in violation of Subsection (A) of this section, except as provided in Subsection (C) 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.

C. In the following exceptional cases, a juvenile 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. The juvenile received authorization from a parent or legal guardian.

D. A police officer who has probable cause to believe that a juvenile is in violation of this section shall take such juvenile into protective custody and immediately contact the juvenile's parent or guardian. If, after this contact, there is probable cause to believe that the juvenile was violating this section, the juvenile sixteen years of age or under 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 juvenile.

E. Any juvenile 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 juvenile was indifferent to the activities, conduct or whereabouts of such juvenile.

**Section 4. Severability.** Each section of this Ordinance is an independent section and a holding of any section or part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other section or part thereof.

**Section 5. Safety Clause.** The City Council hereby finds, determines, and declares that this Ordinance is promulgated pursuant to the City's home rule authority and under the general police power of the City of Delta and that it is promulgated for the protection of the health, safety, and welfare of the citizens of the City of Delta. The City Council further determines that this Ordinance bears a rational relationship to the legislation proposed hereof

**Section 6. Effective Date.** This Ordinance shall become effective thirty (30) days after final publication as provided in City Charter and C.R.S. section 31-16-105.

ADOPTED on first reading and ordered published this \_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

ADOPTED on second and final reading and ordered published this \_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

# MEMO

To: City Council  
From: Steve Glammeyer, P.E., Utilities/Public Works Director  
Date: February 17, 2015  
Subject: 2<sup>nd</sup> Street Storm Water Phase II/5<sup>th</sup> Street Storm Water



*Utilities/Public Works Department*

## **Recommendation:**

Staff is recommending that the City award the Contract for the 2<sup>nd</sup> St. Storm Water Phase II, 5<sup>th</sup> St. Storm Water Phase I, additional ancillary paving and Palmer St. overlay projects to Wells Excavation & Farming, LLC.

## **Background:**

During the 2015 budget process, staff budgeted \$1,500,000 for completion of the 2<sup>nd</sup> street storm water and phase 1 of the 5<sup>th</sup> Street storm water projects (Base Bid project). Staff has received \$1,000,000 to help fund this project. Staff also budgeted \$400,000 to help finish the paving not attributable to the storm water project but ancillary to the work (Bid alternates A and B) and to overlay Palmer Street from 5<sup>th</sup> to 1<sup>st</sup> Street (Bid Alternate C).

This project, in part, is the completion of the 2<sup>nd</sup> St. storm sewer project started in 2012 that went from Columbia to almost Palmer St. The 2<sup>nd</sup> Street Phase II project starts from that point and finishes the line to Garnet Ave.

The 5<sup>th</sup> St. Phase I project starts at the water quality and retention pond at the intersection 5<sup>th</sup> and Silver Sts. and continues to, at least, Palmer St. There is a chance that we may extend this section one more block to the east to Main St. in order to make full use of the DOLA grant money we received to help fund this project. We'll be working with DOLA and the contractor to see if that will work for both. If the project is extended, staff would seek a change order to complete that block.

Finally, staff also took advantage of the paving needs from the storm water projects and added a bid alternate that will mill and overlay Palmer St. from 5<sup>th</sup> to 1<sup>st</sup>. There is also additional paving ancillary to the storm water piping that is not included in the grant money received and those are added as alternates as well.

Staff requested bids from qualified contractors and received 4 bids as follows:

Bidder	Base Bid	Alternate A	Alternate B	Alternate C	Total
Budget	\$1,500,000.00		\$400,000		\$1,900,000.00
Wells Exc.	\$1,129,798.95	\$27,313.50	\$117,745.80	\$247,501.55	\$1,522,359.80
M.A. Conc.	\$1,353,889.60	\$29,280.60	\$137,850.20	\$257,423.60	\$1,778,444.00
Sorter	\$1,513,372.00	\$30,440.50	\$147,510.00	\$266,065.05	\$1,957,387.55
Red Point	\$1,778,287.00	\$41,732.00	\$235,896.00	\$314,809.00	\$2,370,724.00

**Cost:**

Staff is recommending that we award the base bid and all the alternates for a total cost of \$1,522,359.80.

**Alignment With Strategic Planning:**

This project is identified in the 2008 Stormwater Master Plan in the recommended Capital Improvement Project List to improve capacity.

**Actions To Be Taken if Approved:**

Staff will work to execute a construction contract agreement with Wells Excavation & Farming, LLC.

# MEMO

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To: City Council  
From: Rod Myers, Fleet/Facilities Manager  
Date: 02/17/2015  
Subject: Equipment / Vehicle purchases



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*Utilities/Public Works Department*

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**Recommendation:**

Staff is recommending approval from Council to purchase the equipment and vehicles listed below:

1. Hatchback sedan
2. Mower with 72"width deck and grass catcher

**Background:**

During the 2015 budget process, staff budgeted to replace several pieces of equipment and vehicles that are scheduled for replacement. This round there is a car in the Community Development (Building Official) Department and a mower in the Parks Department. The mower is also a multi use piece of equipment which will accommodate other attachments in the future such as a front blade, rotary sweeper, debris blower, snow blower and a 100' flex mower. These attachments will be considered in the future and will be budgeted on an as need basis.

Staff solicited bids from local and regional companies including Hellman Motor Co (Ford) in Delta, Hellman Chevrolet in Delta, Grand West Kia in Grand Junction, US Tractor (John Deere) in Grand Junction, Western Implement (Kubota) in Montrose. Additionally, staff also used the Colorado state bid website and the National Joint Purchasing Alliance website (NJPA) for comparisons. Attached is a complete spreadsheet for all vendors solicited and prices.

**Cost:**

\$24,000.00 was budgeted for the hatchback sedan and Hellman Motor Co of Delta was the successful qualified bidder at \$ 18,780.00. Hellman Motor Co most closely met the specifics included in the bid package. Hellman Chevrolet was the low bid at \$18,160.00 but the vehicle met fewer of the specifications supplied to the bidders.

\$19,000.00 was budgeted for the Cemetery/Parks mower and Western Implement of Montrose was the successful low bidder at \$ 21,960.00. While this bid is higher than estimated, savings from the cost of the other purchase will keep the overall budget under.

Total cost \$ 40,740.00

**Alignment With Strategic Planning:**

By replacing the fleet with newer models it will lower maintenance/repair cost along with providing dependable equipments and vehicles for City staff to use.

**Actions To Be Taken if Approved:** Staff will circulate purchase orders to purchase one new hatchback sedan and one new mower.

Location	Dealer	Manufacturer	Model	Type	Cost	Meet spec*	If no why	Warranty terms	Extended Warranty	Total cost
Grand Junction	Grand West Kia	Kia	Rio		\$18,267.00	no	no power seats		\$1,099.00	\$19,366.00
	NJPA	Kia	Rio		\$19,510.25	no	no power seats			
Delta	Hellman Chevrolet	Chevrolet	Sonic		\$17,320.00	no	no power seats	5yr/75,000 mi	\$840.00	\$18,160.00
	NJPA	Chevrolet	Sonic		\$18,977.84	no	no power seats			
<b>Delta</b>	<b>Hellman Motor</b>	<b>Ford</b>	<b>Focus</b>		<b>\$17,925.00</b>	<b>partial</b>	<b>Drivers seat only</b>	<b>5yr/75,000 mi</b>	<b>\$855.00</b>	<b>\$18,780.00</b>
	NJPA	Ford	Focus		\$19,293.00	no				

\* Specification requested was for all front seats to be power assist. As you can see, the Hellman Motor (Ford) offered the drivers side seat with power assist. Therefore staff is recommending Hellman Motor (Ford) for the successful qualified bidders since they partially met the requested specification.

Montrose	Western Implement	Kubota	2690E		\$21,235.00	yes		1 yr/ unlimited hrs	\$725.00	\$21,960.00
	NJPA	Kubota	2690E		\$27,267.00	yes				
Grand Junction	US Tractor	John Deere	1550		\$27,220.00	yes		36month/1500hrs	\$794	\$28,014

Items: K, L & M

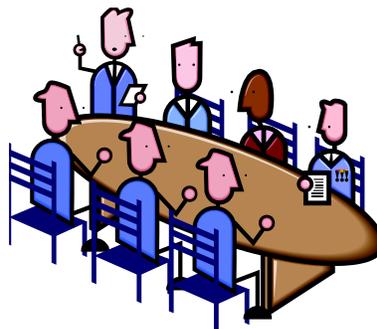
Attorney Comments



City Manager Comments



Councilmember Comments



**Item N:**

**Executive Session:**

For a conference with the City Attorney for the purpose of receiving legal advice on specific legal questions under CRS Section 24-6-402(4)(b), for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators, under CRS Section 24-6-402(4)(e).

## AGREEMENT TO MEDIATE

This AGREEMENT TO MEDIATE (“Agreement”) is entered into this \_\_\_\_ day of February, 2015 by and between the City of Delta, a Colorado home rule municipality (the “City”), and Hamon Contractors, Inc., a Colorado corporation (“Hamon”).

### RECITALS:

WHEREAS, the parties entered into that certain Construction Contract dated effective November 28, 2012 (the “Contract”) regarding the construction of a new highway bypass for the City; and

WHEREAS, the parties have alleged certain claims and defenses against one another arising out of or related to the Contract (the “Disputes”); and

WHEREAS, the parties desire to engage in mediation in an effort to resolve their Disputes and desire to set forth the terms for such mediation herein.

NOW THEREFORE, for and in consideration of the mutual covenants and agreements set forth herein, and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Incorporation of Recitals. The foregoing Recitals are incorporated herein as if set forth in full.
2. Agreement to Mediate. Subject to the terms and conditions of this Agreement, the parties hereby agree to engage in mediation in an effort to resolve their Disputes. Each party shall participate in the mediation in good faith until settlement of all issues or an impasse is declared by the mediator. Such mediation shall take place on Friday, March 13, 2015. The mediation will be scheduled for one full day and shall be held at the selected mediator’s offices located at the Polsinelli law firm, 1515 Wynkoop Street, Suite 600, Denver, Colorado 80202.
3. Costs of Mediation. The City hereby agrees to pay all costs associated with the mediation including the costs and charges associated with the mediator.
4. Selection of Mediator. The parties have mutually agreed to Eugene R. Commander, Esquire of the Polsinelli law firm to serve as the sole mediator in this matter. Mr. Commander has extensive experience in construction law and the particular issues involved in the Disputes.
5. No Waiver. Except as set forth in Paragraph 6 below, by agreeing to mediate its Disputes, neither party waives, nor shall be deemed to have waived, any claims or defenses against any other party or the right to bring suit in the District Court in and for the County of Delta, State of Colorado if settlement is not reached at the mediation.

6. Exhaustion of Administrative Remedies. Without admitting that the Contract contemplates or requires compliance with dispute resolution processes prior to the commencement of suit, the parties agree that their participation in the mediation contemplated herein shall be deemed to exhaust any such administrative remedies that may be a precondition to filing suit in Delta County District Court.

WHEREFORE, the parties have caused this Agreement to Meditate to be effective on the date set forth above.

**HAMON:**

**HAMON CONTRACTORS, INC.,  
a Colorado corporation**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**CITY:**

**CITY OF DELTA,  
a Colorado home rule municipality**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_