



551 Hot Springs Boulevard
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**PAGOSA SPRINGS SANITATION GENERAL
IMPROVEMENT DISTRICT MEETING AGENDA
THURSDAY, APRIL 23, 2015
Town Hall Council Chambers
551 Hot Springs Blvd
5:00 P.M.**

- I. **CALL MEETING TO ORDER**
- II. **PLEDGE OF ALLEGIANCE AND MOMENT OF SILENCE**
- III. **PUBLIC COMMENT – *Please sign in to make public comment***
- IV. **CONSENT AGENDA**
 1. **Approval of April 7, 2015 Meeting Minutes**
 2. **Approval of March Financial Statement and Accompanying Payments**
- V. **REPORTS TO BOARD**
 1. **Sanitation District Report**
 2. **PAWSD/Pipeline Update Report**
- VI. **NEXT BOARD MEETING MAY 5, 2015 AT 5:00PM**
- VII. **ADJOURNMENT**



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**PAGOSA SPRINGS SANITATION GENERAL
IMPROVEMENT DISTRICT MEETING MINUTES
TUESDAY, APRIL 7, 2015
Town Hall Council Chambers
551 Hot Springs Blvd
5:00 P.M.**

- I. **CALL MEETING TO ORDER** – Board President Pro Tem Bunning, Board Member Alley, Board Member Egan, Board Member Lattin, Board Member Patel, Board Member Schanzenbaker
- II. **PLEDGE OF ALLEGIANCE AND MOMENT OF SILENCE**
- III. **PUBLIC COMMENT** – None
- IV. **CONSENT AGENDA**
 1. **Approval of March 19, 2015 Meeting Minutes** – Board Member Schanzenbaker moved to approve the consent agenda, Board Member Lattin seconded, unanimously approved.
- V. **REPORTS TO BOARD**
 1. **PAWSD/Pipeline Update Report** - The construction contractor has indicated they will be gearing up for full crews this month now that the weather is conducive for digging. Portions of the pipeline that remain to be installed include the point where the pipeline crosses Trujillo Road, near Graham property, approximately 1.5 miles south to the Alpine Cascade property. Archuleta County will be doing major work on Trujillo Road from the town limit to the transfer station this summer. Staff is now responsible for review and certification of payrolls to the Colorado Water Resource and Power Development Authority under the US Department of Labor Davis-Bacon Act for all labor on Section 1 of the pipeline.
- VI. **NEW BUSINESS**
 1. **Discussion Regarding Dormant Sewer Accounts** – Staff has been requested to research what options are available for customers whose properties are no longer occupied and are believed to have no or little impact on the District’s collection or treatment system. Districts have no way of knowing whether sewer service at any particular property is being used or not and there is no way to turn sewer service off at any given property. The current Sanitation District rules and regulations prohibit residential accounts to be in an inactive or dormant status. However, any tap owner may request a voluntary termination of service and that the District “void” the tap providing such service is paid in full and capped off. If the owner wishes to reconnect, they will pay the new connection fee. The District allows for seasonal RV parks to close during the winter off-season months and area all reduced to one EU. There are just 3 camper parks using this option. Board Member Schanzenbaker does not like the thought of an availability fee. However, he doesn’t think making vacant homes pay for service is necessary. Board President Pro Tem Bunning said availability may be a good subject for a later time. He suggests tying reductions in

costs/availability fees to PAWSD shut off or turning on of the water. Board Member Alley and Lattin would like to work with PAWSD to get the off and on water information. Board Member Lattin said a small monthly fee to take care of rain or snow melt that infiltrates the pipes. Mr. Darrel Cotton said the availability fees will not change the qualification of the loan. He said the I&I factor can't be separated from the rest of the town. He would like an availability fee for homes that are not using water.. Mrs. Martha Maez said her mom's house has been dormant for four years and the water has been shut off for four years. Board Member Schanzenbaker said a vacant lot to pay an availability fee is different than a dormant structure fee for a structure that has been connected to the system. Board Member Alley moved to direct staff to contact PAWSD and explore the feasibility of PAWSD acting as a partner in notifying the District for turning on and off the water to District residences, Board Member Egan seconded, unanimously approved.

VII. NEXT BOARD MEETING APRIL 23, 2015 AT 5:00PM

VIII. ADJOURNMENT – Upon motion duly made, the meeting adjourned at 5:35pm.



AGENDA DOCUMENTATION

REPORTS TO BOARD:V.1

PAGOSA SPRINGS SANITATION BOARD OF DIRECTORS
APRIL 23, 2015

FROM: GENE TAUTGES, SANITATION SUPERVISOR

PROJECT: DEPARTMENT HEAD REPORT

ACTION: DISCUSSION

Administrative

I attended the Sewer Revolving Fund (SRF) conference in Durango on Thursday April 9th and it was a very informative session. The process to apply for funding in the future has been greatly simplified and will allow districts to rely less on engineering consultants (although still an integral part of the process.) I will continue to keep any eye out for funding opportunities that may apply to any of our projects.

Business license review and lot consolidation requests are being completed as they come in and as time allows.

Collection System

Collection system video and cleaning analysis and flow meter review continue now that the snowmelt season has passed. Once completed, I will construct a plan of action for our cleaning, televising and lining subcontractor to follow for this year's work. There is a problematic service up on Mesa Heights that I hope to repair this spring as well. It will potentially require sidewalk removal in that area where there are cracked pipes with tree roots and snowmelt intrusion. I have replace some warranty parts on the Chamber Lift Station and will complete impeller replacement as soon as the rest of the parts arrive.

Wastewater Treatment Plant

The average daily effluent flow rate for March was .307 million gallons per day with two violations reported for the month, one for ammonia which is typical and another for E. Coli which was probably due to spring runoff. The hydraulic peaking in the collection system is lessening each week and is nearly back to normal.

The Colorado Department of Public Health & Environment will be here to do their triennial inspection on April 23rd. I have and will continue to do any last minute tweaks to the lagoon site before their arrival in anticipation of a good inspection. This is a different division than those I usually deal with, so I have made them aware that the lagoon treatment facility will be de-commissioned quite likely within 90 days of their visit.



AGENDA DOCUMENTATION

REPORTS TO BOARD:V.2

PAGOSA SPRINGS SANITATION GENERAL IMPROVEMENT DISTRICT

DATE: APRIL 23, 2015

FROM: GENE TAUTGES, SANITATION SUPERVISOR

PROJECT: PAWSD/PIPELINE UPDATE REPORT

ACTION: UPDATE AND DISCUSSION

PROJECT UPDATE

A construction progress meeting was held on Thursday April 9th at PAWSD. Hammerlund Construction reported that some new project managers have been assigned to our project and that they will be gearing up for the construction of the pipeline portion of the project soon. They also stated they had found a mistake on pay application #11 in their favor. Discussion was held as to how to best rectify the mistake with the least amount of paperwork and administrative confusion.

Hammerlund Construction has stated they will start pipeline construction on the approximately 1.5 miles of force main left to install at the end of this month or early May. Also, I will complete some of the LPR duties for the duration of the project. This includes review of the Davis Bacon wage agreement and coordination of the environmental analysis done by Ecosphere Environmental. Before any pipeline work begins, we will refresh any points for Pagosa Sky Rocket and wetlands and then schedule a meeting with them and the contractor to make sure all understand the importance and protocols regarding the environmental requirements of the project.

Respectfully submitted,
Gene Tautges
Sanitation Supervisor



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**TOWN COUNCIL MEETING AGENDA
THURSDAY, APRIL 23, 2015
Town Hall Council Chambers
551 Hot Springs Blvd
5:00 p.m.**

- I. **CALL MEETING TO ORDER**
- II. **PUBLIC COMMENT – *Please sign in to make public comment***
- III. **CONSENT AGENDA**
 1. **Approval of the April 7, 2015 Meeting Minutes**
 2. **Approval of March Financial Statement and Accompanying Payments**
 3. **Liquor Licenses**
 - a. **Liquor License Transfer – H&R license transfer from Nello’s Bistro to Side Street Sushi at 135 Country Center Dr. # 9 & 10 Pagosa Springs**
 - b. **Liquor License Renewal – Formusa LLC dba Ajia Asian Cuisine & Spirits at 180 E Pagosa St.**
 - c. **Special Events Liquor Permit – FolkWest Inc. Pagosa Folk ‘N Bluegrass Festival June 5, 6, & 7 at Reservoir Hill Park**
 - d. **Special Events Liquor Permit – Friends of the Upper San Juan River, River Dayz Event May 16 at the Town Park on Hermosa St.**
- IV. **REPORTS TO COUNCIL**
 1. **Featured Department Head Reports**
 - a. **Public Works Department**
 - b. **Police Department**
 2. **Sales Tax Brief**
 3. **Lodgers Tax Brief**
- V. **NEW BUSINESS**
 1. **Community Development Corporation Funding Request**
 2. **Trujillo Road Construction Contract Change Order**
- VI. **OLD BUSINESS**
 1. **Marijuana Cultivation**
 2. **Marijuana Licensing Public Hearing**
 3. **Marijuana Fees**
 4. **Marijuana Background Checks**
- VII. **PUBLIC COMMENT – *Please sign in to make public comment***
- VIII. **COUNCIL IDEAS AND COMMENTS**

IX. NEXT TOWN COUNCIL MEETING MAY 5, 2015 AT 5:00 PM

X. ADJOURNMENT

**Don Volger
Mayor**



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**TOWN COUNCIL MEETING MINUTES
TUESDAY, APRIL 7, 2015
Town Hall Council Chambers
551 Hot Springs Blvd
5:00 p.m.**

- I. **CALL MEETING TO ORDER** – Mayor Pro Tem Bunning, Council Member Alley, Council Member Egan, Council Member Lattin, Council Member Patel, Council Member Schanzenbaker

- II. **PUBLIC COMMENT** – Mr. Joe Neal owns the property right next to the Mud Shaver Car Wash. He said the owner of the car wash trespassed onto his property in order to install a very large inappropriate car wash sign. He said the sign does not fit into the sign code of the Town and is placed in an unfit area compared to the business. He is requesting the Town Council have the sign removed and amend the sign code to make sure this type of sign placement does not happen to another property owner. Mayor Pro Tem Bunning said the Town will look into this issue

- III. **CONSENT AGENDA**
 1. **Approval of the March 19 & 27, 2015 Meeting Minutes**
 2. **Liquor Licenses**
 - a. **Liquor License Renewal – Los Bernal LLC dba Chato’s Mexican Restaurant at 230 Country Center Drive**
 - b. **Liquor License Renewal – Springs Resort LTD dba The Springs Hotel at 323 Hot Springs Blvd**
 - c. **Liquor License Renewal – Foreplay at Bogey’s Inc dba Bogey’s Mini Golf at 83 Pike Dr**
 - d. **Liquor License Renewal – Los Garcias Inc dba Tequillas at 439 San Juan Street**
 - e. **Special Event Liquor Permit – Pagosa Springs Chamber of Commerce Car Show May 15th at Town Park on Hermosa Street**
 - f. **Special Event Liquor Permit – Pagosa Springs Chamber of Commerce Car Show May 16th on Lewis Street**
 - g. **Special Event Liquor Permit – Pagosa Springs Chamber of Commerce Colorfest September 18th and 19th at the Town Park Athletic Field on Hermosa Street**
 - h. **Special Event Liquor Permit – Pagosa Springs Chamber of Commerce Retirement Party April 18 at the Ross Aragon Community Center, 451 Hot Springs Blvd** – Council Member Alley recused himself from discussion and left the room. Council Member Lattin moved to approve the consent agenda, Council Member Egan seconded, unanimously approved.

- IV. **OLD BUSINESS**
 1. **Marijuana Local Licensing Authority** - The Town Council acts as the Local Licensing Authority for alcoholic beverages pursuant to Chapter 3 of the Town’s Municipal Code. The Town will need to designate a body to perform the licensing for retail and medicinal marijuana establishments. The council could designate themselves to act as the licensing board, appoint members of staff and public volunteers to a board, or name an administrative law judge to serve as licensing administrator. Staff believes, similar to alcohol licensing, the town council acting as the licensing

authority is the most efficient manner. Mr. Bill Delaney said the County has one person who is the contact for getting questions answered; he said the town council meeting only twice per month would make it hard to get business done. Town Manager Schulte clarified that the Town Council will be the one to approve the license, but staff would process the paperwork prior to Council's approval. Council Member Lattin moved to direct staff to incorporate into the proposed medical and retail marijuana Ordinance a provision designating the Town Council as the Local Licensing Authority, Council Member Alley seconded, unanimously approved.

2. **Marijuana Business Operations Limitations** – The Town Council has expressed interest in matching Archuleta County's ordinance. This includes several limitations including; product labeling, limited hours of operation, product storage, prohibition of certain metals and gases, identification scanners, prohibition on free distribution of product, in-person sales required, sign code restrictions, advertising or product or business, sponsorship limitations, sales tax, alarm and video surveillance system, doors and locks, storage of product, employee age, business manager requirements, warning signs, business records, disclosure of certain records, and inspection requirements. Mayor Pro Tem Bunning would like to add requiring mandatory background checks on managers, owners, and employees. Mr. Jason Werby said the state is very strict. Mr. Jeremy Bonin said the employee badge is good for two years, the owners renew every year, any tickets or trouble an owner or employee get into must be reported to MED immediately. Mr. Bill Delaney said the state waived the requirement for a safe storage to allow for a safe room due to the increased size of storage. Council Member Schanzenbaker asked about cultivation off site and making the definition of an establishment as not to prohibit greenhouse grow facilities. Town Manger Schulte said the off site cultivation is another issue for another meeting. Mayor Pro Tem Bunning said that off site cultivation is an issue to discuss later, but keeping the growing and jobs in the county is very important. Council Member Alley moved to direct staff to incorporate into the proposed medical and retail marijuana Ordinance, in a proper format, a section specifying operation limitations for retail and medical marijuana establishments similar to the limitations detailed in Section 1.09 of County Ordinance 12-2014, and look into the use of safe rooms, and to gather information on background checks similar to the County requirements, Council Member Egan seconded, unanimously approved.

V. **PUBLIC COMMENT** – None

VI. **COUNCIL IDEAS AND COMMENTS** - Council Member Egan asked about the planning commission reviewing sign ordinances. Town Manager Schulte said the sign ordinance changes are not a small matter, and if directed by the council, staff will work on the detailed project. Council Member Schanzenbaker would like council involved in the geothermal greenhouses to be built in Centennial Park and have a council representative on the GGP board. The Hwy 160 sidewalk project is on track and will be completed as quickly as possible during the good weather and slow tourism season.

VII. **NEXT TOWN COUNCIL MEETING APRIL 23, 2015 AT 5:00 PM** – The Government Finance 101 training is at the community center Friday April 10th at 8am.

VIII. **ADJOURNMENT** – Upon motion duly made, the meeting adjourned at 6:30pm.

Don Volger
Mayor



AGENDA DOCUMENTATION

REPORTS TO COUNCIL:IV

PAGOSA SPRINGS TOWN COUNCIL
APRIL 23, 2015

FROM: ZACH RICHARDSON, TOWN BUILDING OFFICIAL

PROJECT: BUILDING DEPARTMENT REPORT

ACTION: UPDATE AND DISCUSSION

COMMERCIAL BUILDING ACTIVITY:

As of this report, April 16, 2015, we anticipate that Walmart will receive their temporary Certificate of Occupancy, which will allow them to open for business on 22 of April. Items to be completed within the next three months include landscaping, lighting and parking lot stripping. City Market has not picked-up their permit as I had noted last month. I have reviewed and approved the plans; however, we are awaiting their decision and selection of a contractor and payment of permit fees.

BUILDING PROJECTS:

The Department issued the following eight permits during the month of March:

Commercial - Additions	4
Residential – New	3
Residential - Improvements	1

The valuation of all projects is \$766,624

Four projects were completed during March - two single-family residences, commercial storage unit and office remodel.

BUILDING OFFICIAL TRAINING AND CONTINUED EDUCATION:

The State Plumbing Inspector, Zach Richardson, Scott Frost and Margaret Gallegos will participate and receive mechanical training specific for Code Officials. The training will be provided locally on May 7 & 8.

BUILDING VIOLATIONS:

The Department continues to work with legal counsel to follow-up on Building Code violations. A demolition project began without a project permit. Upon further evaluation, the project was positive for asbestos and we are working with the owner and contractor to resolve the issues.

MECHANICAL CONTRACTOR TRAINING:

The Department has been assisting the local contractors with training in local area and has set-up training for HVAC – heating, ventilation and air conditioning. We would like to invite the Town Council to a public forum on Wednesday, April 29 at 5:00 PM to show support to our local contractors. In addition, if there is anyone that you feel would benefit from the free training, please feel free to invite them as well. The contractor (mechanical) training will be May 14, 15 & 16.



AGENDA DOCUMENTATION

DEPARTMENT HEAD REPORT:IV

PAGOSA SPRINGS TOWN COUNCIL

APRIL 23, 2015

FROM: SHANE LUCERO, COMMUNITY CENTER

PROJECT: COMMUNITY CENTER UPDATES

ACTION: UPDATE AND DISCUSSION

UPCOMING EVENTS

April 24th, RACC will be hosting The High Rollers Dance. The dance is open to all ages. Tickets are priced at:

5 years old and younger: Free

Ages 5-12: \$5

Adult Advanced Sale: \$10

Adult @ Door: \$15

May 2nd- The High School Prom will be held at RACC. The dance is from 8pm-midnight.

May 2nd-3rd- RACC is collaborating with the Springs Resort & Spa to host the annual after Prom event. Students will go to the Springs Resort after the dance for soaking and a movie. Refreshments and food will be provided. It is an effort to keep students from going out and engaging in risky behaviors often associated with Prom.

CENTER UPDATES

RACC is currently offering 13 programs free to the community.

Latin Fitness Class is now offered on Monday and Wednesday nights at 5:30pm. The classes are very popular and are at capacity every night.

April 11th, RACC collaborated with the Springs Resort & Spa for the inaugural "Pints & Pools Craft Beer Festival." We had 14 brewers total from Colorado and New Mexico pouring in a beer tasting from 1pm-4pm in the multi-purpose room. After the beer tasting was over, attendees went to the Springs Resort for a relaxing evening soaking in the hot springs and enjoying the views of downtown Pagosa. We are still processing data from the event, but the majority of attendees were from outside of Pagosa/Archuleta County. We had a lot of visitors from Colorado Springs, Denver, Albuquerque and Santa Fe that came to Pagosa specifically for this event. It was a successful first year event and everyone, brewers and attendees, are excited about returning next year. Proceeds from this event will be used for our youth programs.

Pagosa Trail Blazers, a new walking/biking/running group sponsored by RACC will start on April 20th. It is a group designed for people of all ages and abilities to meet at the community center and take advantage of our downtown paths and trails and get people outside for exercise. It will be Mondays and Wednesdays beginning at 5:30pm.

RACC staff is currently in the midst of planning for our summer events.



AGENDA DOCUMENTATION

REPORTS TO COUNCIL:IV

PAGOSA SPRINGS TOWN COUNCIL
APRIL 23, 2015

FROM: CANDACE DZIELAK, COURT ADMINISTRATOR

PROJECT: MUNICIPAL COURT, DEPARTMENT REPORT
ACTION: UPDATE

IN-COURT ACTIVITY UPDATE AND SUPERVISION CASELOAD UPDATE

COURT SESSIONS ~ Three (3) court sessions were conducted in March 2015.

Pagosa Springs Municipal Court March 2015 Offender Characteristics			
Total Offenders Docketed	50		
Traffic	12		
Adults		11	
Juveniles		1	
Criminal	38		
Adults		24	
Juveniles		14	

Pagosa Springs Municipal Court Current Supervision Caseload April 9, 2015		
	Total	% of Caseload
Cases Under Supervision	60	—
Juveniles	16	26.67%
Adults	44	73.33%
Males	39	65.00%
Females	21	35.00%

CONTINUING EDUCATION UPDATE

- The Court Clerk, Kay Castolenia, has registered for the Colorado Association for Municipal Court Administration (CAMCA) Court Basics III course in July 2015. This training will address Appeals, Jury Management, Case Flow Management, and Records Management.

COMMUNITY AND REGIONAL COLLABORATION UPDATE

- Ongoing ~ Municipal Court requested the use of the Archuleta County Combined Courts for an upcoming jury trial, and the request for space was approved. The Court Administrator and Court Clerk have toured the Archuleta Combined Courts' facilities, multiple times, in preparation for the jury trial. The staff of the Archuleta Combined Courts has been accommodating.
- Ongoing ~ The Court Administrator continues to attend Student Attendance Review Boards (SARBs) for the 2014-2015 school year.

2015 BUDGET

- 1) **Office Supplies** ~ Due to an upcoming jury trial, the Court will continue having significant expenses in supply, printing, and postage costs.



AGENDA DOCUMENTATION

REPORTS TO COUNCIL:IV

PAGOSA SPRINGS TOWN COUNCIL

APRIL 23, 2015

FROM: DENNIS FORD, MAINTENANCE SUPERVISOR

PROJECT: MAINTENANCE DEPARTMENT REPORT

ACTION: UPDATE AND DISCUSSION

MAINTENANCE UPDATE

Staff has been working on several items at the Community Center including repair of the walk-in cooler, replacement of a damaged sink in the kitchen, and repairs to holes in the gymnasium walls. Repairs were made to the back railing at the center as well as a small hole in the roof.

Staff continues to assist the streets, sanitation and recreation departments.

Completing of daily tasks and daily geothermal monitoring and taking time off in monitoring PTO levels.



AGENDA DOCUMENTATION

REPORTS TO COUNCIL:IV

PAGOSA SPRINGS TOWN COUNCIL
April 23, 2015

FROM: TOM CAROSELLO, PARKS AND RECREATION DIRECTOR

PROJECT: DEPARTMENT REPORT
ACTION: UPDATE AND DISCUSSION

PARKS AND RECREATION COMMISSION UPDATE

The latest Parks and Recreation Commission (PRC) meeting was held April 14; the minutes from this meeting will be included in the May packet. The next PRC meeting will be held Tuesday, May 12 at 5:30 p.m. in Town Hall.

RECREATION PROGRAMS UPDATE

Youth volleyball for ages 9-12 is ongoing and will run through the first week of May; tee ball for ages 5-6 will begin the same week.

Baseball registration for ages 6-13 begins this week and will run through May 6; the second spring session of gymnastics for ages 3 and up will begin later this month.

Staff is working to finalize the details of the summer, outdoor-education program. The program will be offered once or twice per week (depending on participation) between 9 a.m. and 11:30 a.m.

PARKS UPDATE

In addition to routine duties, the parks crew has been busy replacing the decking on the original pedestrian bridge and getting irrigation systems online. Staff has also begun to coordinate with members of the Geothermal Greenhouse Partnership regarding the transformation of Centennial Park.

Seasonal parks staff returned to work earlier this month, and Scott Condrey recently accepted an offer to become the seasonal parks use administrator. Mr. Condrey will begin working May 4, pending the outcome of his background check and drug screening.

CAPITAL IMPROVEMENT PROJECTS UPDATE

RESERVOIR HILL THINNING PROJECT: Due to uncooperative weather, the project has been postponed until early December.

TOWN PARK PLAYGROUND REPLACEMENT: Staff has begun to evaluate the possibility of replacing the outdated equipment in Town Park with a new playground system.

The intent is to use Conservation Trust Funds (that had previously been dedicated to the skate park expansion project) to purchase the new equipment. Updates on options for this proposal will be provided in May.



AGENDA DOCUMENTATION

REPORTS TO COUNCIL:IV

PAGOSA SPRINGS TOWN COUNCIL
APRIL 23, 2015

FROM: JAMES DICKHOFF, PLANNING DIRECTOR

PROJECT: DEPARTMENT REPORT
ACTION: UPDATE AND DISCUSSION

HISTORIC PRESERVATION BOARD (HPB) UPDATE

The February 17 and March 11, 2015 DRAFT meeting minutes are attached for TC's review. Unless signed by the board chair, these minutes are in DRAFT form and have not yet been reviewed or approved by the HPB.

The HPB has coordinated a number of **Historic Preservation Month Activities**. A flyer is attached. Activities have already begun with an eight week showing of the 8 episodes of the Ken Burns "The West" documentary at the Liberty Theatre. The Manaco Family has agreed to show the series on Tuesday's evenings for a small donation of \$5.00 per person, which includes a small popcorn and soda. A success thus far as the first showing had at least 32 people in attendance and the second showing had at least 50 people in attendance.

At the April 15, 2015 regular meeting, The HPB:

- ~ Discussed the previously approved Color Palettes for the district and listed properties and approved a modification to the allowable colors, with further discussions and possible decisions to occur on April 23rd at a special meeting.
- ~ Discussed the 125th anniversary logo contest and provided a recommendation for Town Councils consideration, which will be presented to Town Council on May 5th.
- ~ Discussed the Stone Arch Bridge Temporary Stabilization efforts.

The HPB called a special meeting for Thursday April 23rd from 12:15 – 1:15 in Town Hall to discuss and make decisions regarding allowable colors within the district, discussion on the stone arch bridge temporary shoring possibilities and review the Riff Raff Alteration Certificate for 274 Pagosa Street.

The Next regular HPB meeting is on May 13, 2015 at 5:15pm in Town Hall.

PLANNING COMMISSION (PC) UPDATE

The March 10, 2015 meeting Minutes are attached for TC's review. Unless signed by the board chair, these minutes are in DRAFT form and have not yet been reviewed or approved by the PC. The March 24th and April 7th PC were canceled.

At the March 10, 2015 meeting, the PC:

- ~ Discussed cargo Shipping Containers, and made a final recommendation for Town Councils consideration. Staff will be developing suggested LUDC revisions for PC's and TC's consideration
- ~ Discussed Electronic Message Center Signs and made a final recommendation for Town Councils consideration. Staff will be developing suggested LUDC revisions for PC's and TC's consideration.

The Next Regularly Scheduled Planning Commission meeting is on April 28, 2015 at 5:30pm.

WATER WORKS FACILITY SHF GRANT APPLICATION

Planning Staff submitted two State Historical Fund (SHF) Grant applications on April 1st, an application for the restoration and preservation of the old stone arch bridge and an application for the restoration and preservation of the Water Works building and historic water tanks, all located at 92 N. 1st Street. Grant award notifications are expected in August 2015.

In the meantime, staff is working with the SHF staff to investigate the possibility of an emergency grant for the temporary stabilization of the bridge before the grants are awarded. The HPB will be working on a plan for temporary stabilization during the next month.

Staff recently meet with Mike Davis of Davis Engineering to look at stabilization of the creek channel, upstream and downstream of the First Street intersection. Davis Engineering will provide a recommendation for such stabilization work in the near future for consideration. Some of this work may need to occur after the temporary stabilization of the bridge, due to the concerns with heavy machinery vibrating the ground and potentially further deteriorating the bridge structure.

HOSPITAL EXPANSION PROJECT

The Pagosa Springs Hospital expansion project appears to be moving forward with plans to break ground in 2015. Planning Staff have met with and have been working with the Architect and Engineers for the proposed project in preparation for their submittal of a Major Design Review Application to be considered by the "Design Review Board" in the near future.

WAL- MART

WalMart has set the grand opening for April 22, 2015. Staff is working with the project contractor and engineering firm for final approvals prior to opening. A few project items may need to be completed after the store opens, and the Town will require financial security for such items.

As Town Council is aware, Wal-Mart has submitted an Appeal of the Town Planning Director's determination that the interior Parking Lot Lights are not compliant with the Town's exterior lighting regulations. Wal-Mart has indicated they may find a solution for compliance rather than continuing an appeal.

Additionally, Wal-Mart has verbally confirmed providing the financial investment for additional landscaping to be placed on private property for screening the loading dock from an adjacent residential home.

None of the above items will prevent Wal-Mart from opening on April 22nd.

It is anticipated a Temporary Certificate of Occupancy will be issued by April 20th to accommodate the opening until the final items are completed or resolved.



AGENDA DOCUMENTATION

REPORTS TO COUNCIL:IV

PAGOSA SPRINGS TOWN COUNCIL
APRIL 23, 2015

FROM: SCOTT FROST, SPECIAL PROJECTS MANAGER

PROJECT: DEPARTMENT REPORT
ACTION: UPDATE AND DISCUSSION

PIEDRA STREET

Piedra Street resurfacing project is on schedule. A pre-bid meeting and walk through was held on April 16. Representatives from Hart Construction, Concrete Connection, Strohecker Asphalt, Davis Engineering and T.O.P.S were present.

200 BLOCK SIDEWALK UPDATE

200 Block Sidewalk- The project was awarded to UCAL. The Town Streets crew has completed demolition of existing sidewalk. LPEA has removed street light. Project on schedule.

6TH STREET PEDESTRIAN BRIDGE UPDATE

Riverwalk phase 3- Final details identified in a walk through that took place at 1:00 PM on April 17, 2015 are being completed, a ribbon cutting is being planned for May 5 at 4:30 PM.

LPEA FRANCHISE UPDATE

LPEA Franchise agreement- The proposed agreement prepared by LPEA contains language that would have a bearing on the sale of electricity generated by the Geothermal Project. That aspect has been addressed in a review done by Town Attorney Bob Cole. The revised version will be provided to LPEA for review on Monday, April 20.

MAJESTIC DRIVE UPDATE

Majestic Drive- Striping and re-vegetation should be completed this month.

ENTRANCE SIGNS UPDATE

Entrance signs- site visits and communication with interested parties is ongoing. Hoped for result is that landscaping will begin in spring 2015 season.

COMMUNITY CENTER UPDATE

Community Center Floor- A "Spec-Sheet" has been prepared and RFP has gone out. Several Companies have indicated they will be bidding on the project.



AGENDA DOCUMENTATION

REPORTS TO COUNCIL:IV

PAGOSA SPRINGS TOWN COUNCIL

APRIL 23, 2015

FROM: APRIL HESSMAN, CMC, TOWN CLERK

PROJECT: TOWN CLERK DEPARTMENT REPORT

ACTION: UPDATE AND DISCUSSION

CLERK'S OFFICE UPDATE

The Town Clerk's office has been busy reviewing procedures and processes and putting new items in place. Kathy Harker is working on new employee packets, procedures and working with department heads to coordinate staff training through Cirsa.

Staff has been closing and transferring funds to the Town's new bank accounts, as well as familiarizing ourselves with the new online banking system, payroll system and deposit process.

Staff is working with the other departments to create an insert in the sanitation bills for the Town's annual Clean-Up week. The dates for town clean-up will be May 11-16 with dumpsters available at the Town shop on S. 5th Street. The cemetery clean-up is scheduled for May 18 to 23.

Staff has spent quite a bit of time working with the PAGWPA board processing invoices and billing DoLA for grant funds, attending meetings and completing minutes.



AGENDA DOCUMENTATION

REPORT TO COUNCIL:IV

PAGOSA SPRINGS TOWN COUNCIL
APRIL 23, 2015

FROM: GREGORY J. SCHULTE, TOWN MANAGER

PROJECT: TOWN MANAGER'S REPORT

ACTION: UPDATE AND DISCUSSION

COMMUNITY CENTER GYM FLOOR

After the Town Council decided to go with a wood floor instead of a poured floor, bid specifications were developed and released on April 10th with a due date of May 1st. It is staff's intent to bring forth to Council a recommendation for award at the May 5th meeting. In coordination with the Community Center staff as well as the church that leases the Gym on Sundays, the window for performing the construction was determined to be July 6th through July 24th, which is essentially 3 weeks. Staff believes it won't take that long, but wanted to allow for that time and to make the window long enough to be attractive to bidders.

CIVIL PROSECUTIONS

The first summons was filed on March 11, 2015 and staff, along with Brett Van Winkle serving as the Special Legal Counsel for civil Municipal Court prosecutions, has prepared the required paperwork associated with the filing. Due to the difficulty in locating the person in question, it looks to be necessary to have the La Plata County Sheriff actually do the service of process.

FRANCHISE AGREEMENT WITH LPEA

The draft has been forwarded to Town Legal Counsel for review and then will come before the Town council in a work session format.

HOT SPRINGS PEDESTRIAN BRIDGE

On April 14th, while performing routine maintenance to the wood planks to the pedestrian bridge that crosses the San Juan River between the Hot Springs Resort and the rear of the County Courthouse, Parks staff discovered cracks in the metal support posts of the bridge. Staff invited a local structural engineer to assess the structure and while it continues to be safe for pedestrians, we will need to limit loads to the structure in the near term and will need to assess options for repair.

Geothermal Greenhouse Partnership (GGP) Project

As the Council is aware, the Town was awarded \$275,000 in Energy Impact & Assistance grant funding for the development of the geothermal greenhouses in Centennial Park. Staff has met with the GGP Board as well as the Site Review Subcommittee to assess how revise the scope of work for the project since we received partial funding. We need to align the scope of work with the partial award amount and that needs to be reflected in the contract document between the Town and DoLA. The DoLA contract needs to be executed prior to the award of the contract to the actual construction.

Folk West Additional RV Parking Spaces

As the Council may be aware, the Streets crew has been improving some property just behind the Post Office to be used as a parking lot for Reservoir Hill. The remaining work is to put base course and gravel to finish off the improvements. Folk West has expressed interest to lease out the sports for RV parking and at the May meeting there will be before the Council an item to approve an addendum to permit Folk West to lease that area.

Downtown Task Force

The Downtown Task Force continues to meet and talk over issues that have arisen as a consequence of the Downtown Colorado, Inc. study. At a recent meeting in March, the Downtown Task Force met with CDOT representatives to discuss the efforts underway to assess option for improving traffic circulation through the downtown corridor, which in this case is defined as Hwy 160 from 10th Street to the 1st Street Bridge. In addition, there is an investigation as to whether there might be funding available from DoLA to hire assistance to implement the recommendations from the DCI study. The notion is that it would be a collaborative effort with several smaller southwestern Colorado towns.



AGENDA DOCUMENTATION

REPORTS TO COUNCIL:IV.1A

PAGOSA SPRINGS TOWN COUNCIL
APRIL 23, 2015

FROM: CHRIS GALLEGOS, PUBLIC WORKS DIRECTOR

PROJECT: PUBLIC WORKS DEPARTMENT REPORT
ACTION: UPDATE AND DISCUSSION

STREETS UPDATE

Streets Department continues to take care of daily street projects, pot holes, and sign reflectors. The alleys and Piedra Estates were all bladed, working on the parking area behind the post office. Took off all winter implements from equipment and worked on rebuilding the sweeper head. Set up the traffic control to start the side walk project. Cut tree down for side walk project. Took all concrete off from sidewalk on 200 block including cutting pavement.

GEOHERMAL UPDATE

Geothermal is running normal, we are now only leaking 0.7 gallon per minute.



AGENDA DOCUMENTATION

REPORTS TO COUNCIL: IV.1B

PAGOSA SPRINGS TOWN COUNCIL
APRIL 23, 2015

FROM: WILLIAM ROCKENSOCK, CHIEF OF POLICE

PROJECT: DEPARTMENT HEAD REPORT
ACTION: UPDATE AND DISCUSSION

POLICE DEPARTMENT INCIDENT REPORTING

The Pagosa Springs Police Department Statistics for March 2015

Officers responded to 254 calls for service.
Officers responded to 22 agency assist calls for service
Officers completed 37 incident action reports
Officers completed 11 accident investigation reports.

OFFICER TRAINING UPDATE

March 2015

All officers completed 2 hours of interactive judgement and use of force firearms training.

Daily training bulletins are administered to each officer by Lexipol to keep current on Police Department Policy and Procedure.

Officers Brown, Gholson, Fitzwater, and Maxwell attended Colorado POST training relating to Marijuana enforcement.

The Police Department is hosting a training, provided free of charge, by Homeland Security in May 2015.

The Police Department is hosting a training, provided free of charge, by CDPHE in July 2015

RECRUITING UPDATE

The police department, currently, has two full time opening(s) for patrol officer. The department recently held first phase of testing for the open positions. Currently, two remaining candidates were selected to continue to the second phase of testing.

The Police Department recently hired a new officer, Warren Brown. Officer Brown has over twenty years of experience in law enforcement, and he spent the majority of his career in Montrose, Colorado.

The police department has hired a new Administrative Assistant, Trish Padian.

COMMUNITY EVENTS UPDATE

The police department was asked to attend the opening of the new Walmart store, and as part of community outreach, we will be providing Child Fingerprint Identification kits and short demonstrations with Bonnie, the department's blood hound.

MOBILE RADAR SPEED TRAILER: The police department has been utilizing the radar speed trailer at high traffic areas throughout the community. This has been an effective tool in assisting motorists with voluntary speed compliance

CAPITAL IMPROVEMENTS UPDATE

The Police Department is currently pricing a replacement truck for animal control through GSA.



AGENDA DOCUMENTATION

REPORTS TO COUNCIL:IV.3

PAGOSA SPRINGS TOWN COUNCIL
APRIL 23RD, 2015

JENNIFER GREEN, DIRECTOR OF TOURISM

PROJECT: LODGING TAX UPDATE
ACTION: UPDATE AND DISCUSSION

NEW NAME: VISIT PAGOSA SPRINGS

A press release is being sent out to local media announcing our name change from the Town Tourism Committee to Visit Pagosa Springs. All of our social media handles and website address are "Visit Pagosa Springs". The new name will provide consistency across advertising platforms and also better explain our role in the community.

TTC MEETING ACTIVITY

The Town Tourism Committee canceled its April meeting due to various travel schedules. The May Visit Pagosa Springs meeting will be held on Tuesday, May 12th at 4pm at the Visitor Center. The Wayfinding & Signage subcommittee has been actively working on 2015 / 2016 projects.

TTC FINANCIAL REPORT

Lodging tax data for February is incomplete. There are multiple payments still outstanding. Currently, collections are 10% down over 2014.

VISITOR CENTER UPDATE

- New fishing guide being printed, will be available soon for distribution - worked with Forest Service and Joe with Ski & Bow Rack to develop content
- New year-round camping directory available of private and forest service campgrounds; worked with forest service for content approval
- New volunteer recruitment completed for ongoing volunteer recruitment
- 2015 tours and appreciation events underway, multiple tours conducted already (coffee shops, all area retail and more), with guided downtown historic walking tour, guided Chimney Rock tour and rafting trip through Pagosa Outside all scheduled the 1st week of May
- Music is typically played via Pandora from the touch screen monitor on the main information desk. Music selection is most often dictated by volunteers.

VISITOR CENTER TRAFFIC

Visitor Center traffic is being monitored via door counters, placed on each of the two outside entrance doors. In the past, data was collected via volunteers soliciting visitors to sign in. Traffic in March was XXX. If we assume 25% of the traffic was for meetings, Chamber of Commerce, staff, etc. the traffic counts still show strong results when compared to previous years. While the system for tracking has changed, it is not fair to compare year over year with a previous method. We will continue to track totals on a monthly data to add a new data point in our tracking metrics. The door counters also allow us to view in 30 minute increments and add volunteers during the busiest times of the day.

SOCIAL MEDIA UPDATE

- Facebook - www.facebook.com/visitpagosasprings Facebook: 10,187 fans
- Instagram - www.instagram.com/visitpagosa: 1,206 followers
- Twitter - www.twitter.com/visitpagosa - 795 followers

LEAD COLLECTION (VISITOR GUIDE REQUESTS)

History of Leads / Visitor Guide Requests by month:

	Jan	Feb	Mar	April	May	June	July	Aug	Sep	Oct	Nov	Dec	Total
2010	1984	2413	3171	2601	3330	3221	2533	3110	1959	1436	1622	1279	28,659
2011	1443	2255	1657	4255	3684	2092	1945	1789	1518	995	1160	921	23,714
2012	2111	2704	2690	1730	2010	4445	3998	2624	3157	1435	1575	1392	29,871
2013	5322	3281	2658	4357	3626	3537	4372	3040	2791	995	1158	1356	36,491
2014	2,074	2,672	3,857	2,909	2,358	3,118	2,185	1,617	1,498	1,118	1286	783	25,475
2015	1,756	2,562	***										

***Lead import reports for March only reflect leads from colorado.com. Staff is working with Tourism Intelligence Group to determine the issue; all leads were entered, reports are not generating accurate data.

NEW LURE PIECE / TRAVEL PLANNER

New Travel Planner is nearly complete and is currently being reviewed by the Visit Pagosa Springs Board. New piece will go to print by end of April, with distribution beginning in early May. New guide is not "dated", so the shelf life will last until additional guides are needed. Minor edits / updates will be completed with each new print cycle. This new product will be leveraged for trade shows attended by Visit Pagosa Springs and provided for other businesses that attend various consumer shows.

DESTINATION MARKETING ASSOCIATION INTERNATIONAL

The Director of Tourism is attending the DMAI Marketing Innovation Summit April 15th - 17th in San Francisco. The Summit is a 3-day working meeting with industry professionals in similar roles to brainstorm and explore innovative ways to promote destinations.

GROUP TRAVEL

The Tourism Director is participating in IPW in late May in Orlando with the Colorado Tourism Office; over 100 leads have been generated through previous two shows. Additionally, once the new Travel Planner is available, a customized mailing will be sent to all of the leads collected thus far inviting them on a FAM trip to visit Pagosa and perform lodging site visits.



AGENDA DOCUMENTATION

REPORTS TO COUNCIL:IV.2

PAGOSA SPRINGS TOWN COUNCIL
 APRIL 23, 2015

FROM: GREGORY J. SCHULTE, TOWN MANAGER

PROJECT: FEBRUARY 2015 SALES TAX REVENUE REPORT
 ACTION: DISCUSSION AND POSSIBLE ACTION

CURRENT MONTH SALES TAX & LODGERS TAX REVENUE

This report represents the report for February 2015 for sales tax and represents the second report of the calendar year. The February 2015 sales tax revenue showed an impressive increase of +28% compared to February 2014. Total sales revenue for February 2015 was \$273,348, with that divided equally between the General Fund and the Capital Improvement Fund (\$136,674 going to each). In February 2014, the total amount received was \$214,365. The 2015 February sales tax received was \$119,175 higher than in 2014.

However, like last month, this impressive increase is a bit misleading as about ½ of the increase (about \$63,000) of the increase resulted from collections by the State from vendors related to prior periods. Still, with those factored out the February 2015 increase was significant at +13.2%. Last, the State Department of Revenue continues to remit to the County instead of directly to the Town.

Lodgers' Tax is covered separately in the report given by Jennie Green, Executive Director of the Town Tourism Commission.

Compared to 2015 Budget

The sales tax projection for the adopted 2015 budget is a total of \$3,791,242 and represents a 6% increase over the year end for 2014. The month of February 2015 yielded \$136,674 for the General Fund and exactly the same amount for the Capital Improvement Fund. Premised upon the 10 year monthly average, the expectation is the Town should have received about \$121,320 based upon the budgeted annual amount of \$1,895,621. The variance is \$15,354 or 12.7% higher than budget. Year to date, we are ahead of budget by approximately \$ 43,000, or 17% ahead of budget. This information would be true for the Capital Fund as well. For more detail, please see Exhibit A.

ANALYSIS

Resolution 2015-01 mandates 2015 expenditure reductions if sales tax revenues decline from the average revenue of the past two years. The application of the Resolution requires a monthly analysis that averages several months/years of revenue, to smooth out the impact of significant swings in sales tax collections:

	<u>2012</u>	<u>2013</u>	<u>Avg.</u>	<u>2014</u>	<u>% Change</u>
December	327,667	312,400	320,034	353,558	+ 10.05%
	<u>2013</u>	<u>2014</u>	<u>Avg.</u>	<u>2015</u>	<u>% Change</u>
January	238,755	247,996	243,376	310,175	+27.45%
February	201,635	214,365	208,000	273,348	+31.41%

The average sales tax collections over the past two months is positive $(27.45\% + 31.41\%)/2 = +29.43\%$. The average sales tax collections over the past three months is positive $[10.05\% + 27.45\% + 31.41\%]/3 = +22.97\%$. Application of paragraphs 5 and 5(b) of the Council's policy calls for **NO** reduction of budgeted expenditures since the reduction is not more than 5%

ATTACHMENT(S)

Exhibit A

RECOMMENDATION

Informational, no action required.

**Town of Pagosa Springs
2015 Sales Tax Estimate
General Fund**

<u>Month</u>	<u>2015 Estimated</u>	<u>2015 Actual</u>	<u>Variance</u>	<u>10 Year Ave. % Collection</u>
January	127,007	155,088	28,081	6.7%
February	121,320	136,674	15,354	6.4%
March	140,276			7.4%
April	117,529			6.2%
May	138,380			7.3%
June	178,188			9.4%
July	231,266			12.2%
August	178,188			9.4%
September	180,084			9.5%
October	155,441			8.2%
November	140,276			7.4%
December	187,666			9.9%
TOTAL	1,895,621	291,762	43,436	100.0%
Percent Ahead of Estimate	17%			



AGENDA DOCUMENTATION

NEW BUSINESS: V.1

PAGOSA SPRINGS TOWN COUNCIL
APRIL 23, 2015

FROM: GREGORY J. SCHULTE, TOWN MANAGER

PROJECT: PAGOSA SPRINGS COMMUNITY DEVELOPMENT CORPORATION FUNDING REQUEST
ACTION: DISCUSSION AND POSSIBLE ACTION

PURPOSE/BACKGROUND

Over the years, Archuleta County and Pagosa Springs has been served by an economic development organization, first known as the Archuleta Economic Development Association (AEDA) and then in 2010 it transitioned to the Pagosa Springs Community Development Corporation (CDC). For a variety of reasons, the CDC membership waned and the Town and County both discontinued their membership in 2012.

Beginning in the later part of 2014, the staff at Region 9 made efforts to rejuvenate the CDC. To further that effort, Region 9 staff convened a "Transition Team" to explore options and assist in re-establishing the organization. The Transition Team consists of representatives from area businesses, current CDC members, Town and County officials, and Region 9 staff. The Transition Team, CDC Board, and Region 9 members feel the CDC is now in a position to operate effectively and is coming forth to request Board participation and funding from the Town of Pagosa Springs. The request from the CDC is summarized as follows:

- The CDC Board requests the Town of Pagosa Springs designate a representative to serve on the CDC Board. The CDC Board would like to approve the Town representative at the May 13, 2015 CDC Board Meeting.
- The CDC requests the Town of Pagosa Springs commit up to \$20,000 in support funding for calendar year 2015. The CDC will present quarterly invoices demonstrating costs incurred for Town review. The First Quarter invoice from the CDC in the amount of \$3,394.98 is being presented as part of this request.

The request letter and invoice from the CDC are attached for further detail.

ATTACHMENTS:

- CDC Request Letter
- First Quarter Invoice

FISCAL IMPACT

In anticipation of this request, the Town council approved budgeting \$20,000 in 2015 for possible participation in the CDC.

RECOMMENDATION

Possible motions for the Town Council to consider are:

"Move to APPROVE the Town of Pagosa Springs' financial contribution to the CDC, in an amount not to exceed \$20,000 for calendar year 2015, and to designate (person) as the Town's representative on the CDC Board."

"Move to DENY the Town of Pagosa Springs' financial contribution to the CDC."



To: Town of Pagosa Springs

From: Pagosa Springs Community Development Corporation

Date: April 15, 2015

Subject: Request to Appoint Town of Pagosa Springs Representative to the Pagosa Springs Community Development Corporation Board of Directors and to Approve a Funding Request for Q1 2015

At the joint Archuleta County & Town of Pagosa Springs meeting on March 24th, 2015, the Pagosa Springs Community Development Corporation (PSCDC) Board of Directors provided an update on activities and efforts taken up to become an effective and efficient economic development organization in Archuleta County. One of the most important activities centers around re-organizing the PSCDC Board of Directors to include representation from Archuleta County and the Town of Pagosa Springs. The PSCDC Board hereby requests that the Pagosa Springs Town Board appoint a representative to serve on the PSCDC Board of Directors. The PSCDC Board would like to approve an appointee nominated by the Town Council Members at the May 13 PSCDC public meeting.

The PSCDC also requests that the Town of Pagosa Springs commit up to \$20,000 in financial support to support PSCDC efforts in 2015. At the end of each quarter, the PSCDC will present an itemized invoice showing the expenses incurred by the PSCDC for the quarter. Based on a suggestion facilitated by Ed Morlan, Executive Director of Region 9 Economic Development District, the PSCDC Board requests that the Town of Pagosa Springs contributes one-third of the cost of total expenses for each quarter. In turn, Archuleta County will contribute one-third of the cost and the PSCDC will contribute the final third.

The PSCDC Board has attached an invoice for the first quarter of 2015 to this request and the total for first quarter expenses comes to \$10,184.94 with a request for 1/3 of the payment to be contributed by the Town of Pagosa Springs, totaling \$3,394.98.

The PSCDC Board also offers for the Town of Pagosa Springs to send additional representatives to our next meetings scheduled for the following dates and locations.

- May 6, 12 to 2pm: Work session—First SouthWest Bank
- May 13, 5pm to 7pm—Annual Membership/Public meeting

Please contact the PSCDC Board of Directors President, Jason Cox, with any questions at (303) 204-3033 or jasonpcox21@gmail.com.

Best regards,



Cindi Galabota
Secretary, Board of Directors
Pagosa Springs Community Development Board of Directors

Pagosa Springs Community Development Corporation

PO Box 1183

Pagosa Springs, CO 81147

Invoice

Date	Invoice #
4/15/2015	1001

Bill To:
Town of Pagosa Springs Attention: Greg Schulte PO Box 1859 Dolores, CO 81323

Due and payable upon receipt

DESCRIPTION	QUANTITY	Unit Price	AMOUNT
Region 9 - 2014 Enterprise Zone administrative fee	1		\$ 202.50
Region 9 - CDC administrative fee	1		\$ 500.00
Wilson, Rea, Beckel & Associates - accounting services	1		\$ 227.19
Pagosa Chamber - contract fee for 1st Quarter 2015	1		\$ 1,006.46
Maynes, Bradford, Shipps, & Sheftel, LLP - retainer for work completed in 1st Quarter 2015			\$ 1,000.00
SBDC - 2015 sponsorship for services and support			\$ 7,000.00
miscellaneous - meetings and other			\$ 248.79
		<i>Total expenses</i>	\$ 10,184.94
		Total owed	\$3,394.98 *

The total billed to the Town is one third of the expenses.

The County and Pagosa CDC will divide the remaining portion.

If you would like detailed receipts for the above, please let us know.



AGENDA DOCUMENTATION

NEW BUSINESS: V.2

PAGOSA SPRINGS TOWN COUNCIL
APRIL 23, 2015

FROM: GREGORY J. SCHULTE, TOWN MANAGER

PROJECT: TRUJILLO ROAD CONSTRUCTION CHANGE ORDER
ACTION: DISCUSSION AND POSSIBLE ACTION

PURPOSE/BACKGROUND

Pursuant to the 2015 County Road Plan, the County Public Works Department intends to reconstruct a significant portion of the paved section of Trujillo Road (County Road 500). In the course of doing preliminary survey and design work, it was discovered that the Town limit boundary was significantly further west than previously thought. As a result, more of Trujillo Road is inside the Town limits than before. Instead of the Town limits ending at approximately S. 10th Street and Trujillo Road, it goes further west to what is known as the Putnam Annexation and is approximately another 1,300 linear feet of roadway. (See attached map)

In discussions with the County staff the question was posed as to whether the Town would be interested in participating with the County's Trujillo Road Construction Project. If we wanted to have the County to reconstruct the Town's portion of Trujillo Road, then it could be added as a Change Order to the County's original scope of work.

At Town staff's request, a cost estimate was provided to perform the extra work. In addition, there was an additional 600 linear feet segment added to get additional pavement from about S. 10th Street to the west concrete connector at S. 8th Street and Apache Street. In conversations with Town Street staff, it is believed to be advantageous to resurface Trujillo all the way to S. 8th Street and Apache Street. The estimated cost for the additional 1,900 linear feet of roadwork is \$340,835. (See attached cost estimate)

ATTACHMENTS

- Location Map
- Cost Estimate

FISCAL IMPACT

This project is not a budgeted item. However, there is \$217,000 budgeted in the 5Year Street Maintenance line item and it was intended to use those funds to resurface S. 10th Street. That effort could be deferred until a subsequent year to take advantage of the County being mobilized to do Trujillo in 2015. That leaves approximately \$124,000 that would have to be appropriated from General Funds Reserves to fully fund the cost estimate.

A secondary consideration is the bids for the Piedra Street reconstruction are being opened the same day as the Council meeting (April 23rd). In the event the bids come in lower than the budgeted amount of \$500,000, there may be additional funding from that source to lessen the impact to the General Fund Reserves.

RECOMMENDATION(S)

Possible motions for consideration by Council include:

- 1.) ***“Move to APPROVE the Town’s participation in the County’s Trujillo Road Project to reconstruct 1,900 linear feet at the estimated cost of \$340,835 with \$217,000 in funding coming from the 5 Year Maintenance Plan line item and the balance of \$123,835 coming from General Fund Reserves.”***

- 2.) ***“Move to APPROVE the Town’s participation in the County’s Trujillo Road Project to reconstruct 1,900 linear feet at the estimated cost of \$340,835 with \$217,000 in funding coming from the 5 Year Maintenance Plan line item, (\$X) coming from unobligated funds from the Piedra Street Construction Project, and the balance of (\$Y) coming from General Fund Reserves.”***

- 3.) ***“Move to DECLINE the Town’s participation in the County’s Trujillo Road Project.”***



April 1, 2015

Mr. Ken Feyen, Public Works Director
Archuleta County
P.O. Box 1507
Pagosa Springs, CO 81147

Re: Trujillo Road – Change Order No. 1 Proposal

Dear Ken:

The purpose of this correspondence is to present Change Order No. 1 information for services in addition to those outlined in our proposal titled “Preliminary, Design, & Construction Engineering Services Proposal For the Reconstruction of a Portion of Trujillo Road (CR 500)” dated February 4, 2015. It is understood that the Town of Pagosa Springs (TOPS) desires to join with Archuleta County in the reconstruction project so that their portion of roadway is also addressed.

In the original proposal, we accounted for providing services for a portion of the road which is the responsibility of TOPS, amounting to approximately 1,300 feet. An additional 600 feet of roadway exists outside of that which was covered to get the improvements to the concrete intersection at Apache Street and Eight Street. The Change Order No. 1 request will be for the additional work, but we will also total the amount associated with the TOPS portion of the roadway.

The general project approach and work items will be the same as indicated in the original proposal, with a couple of exceptions. First, as we are tying into existing concrete structures which will not be modified (Apache Street and LPEA driveway), we will need to construct the entire road section in these areas. This will include excavation, removal, and import of the full section of road base, which is generally not the case for the remainder of the road. This will require some red top staking, which has been included in the miscellaneous layout work item. Second, while it appears that there is existing right-of-way for the County portion of the road being improved, there appear to be issues on the TOPS portion. It is our understanding that TOPS does not plan to clean-up or pursue right-of-way acquisition. We will indicate our understanding of the property boundaries in the areas on the plans, but have not allocated any time or fees to performing complete boundary surveys or preparing boundary or right-of-way plats. Correspondingly, it is understood that TOPS proposes to utilize “prescriptive rights” for the roadway improvements, and they should confirm with their attorney that it is appropriate.

The proposed Change Order amount to include the additional 600 feet of roadway to tie into the concrete intersection at Apache Street and Eighth Street is broken down as follows:

<i>Additional PRELIMINARY ENGINEERING</i>	
Service Item	Contract Budget
Site Survey/Mapping	2,750.00
Prelim. Rd. Analyses & Cost Est.	500.00
Add. Prelim. Engineering	\$ 3,250.00

<i>Additional DESIGN ENGINEERING</i>	
Service Item	Contract Budget
Road Design	1,500.00
Drainage Design	500.00
Final Bid Documents	300.00
SWMP and Permit App.	250.00
Meetings/Correspondence	150.00
Add. Design Engineering	\$ 2,700.00

<i>Additional CONSTRUCTION ENGINEERING</i>	
Service Item	Contract Budget
Offset Staking	750.00
Blue Top Staking	1,000.00
Calcs./Misc.Layout/Replacement	2,000.00
Materials Testing	2,000.00
Construction Review	1,500.00
Contract Administration	500.00
As-Builts/Closeout	250.00
Add. Const. Engineering	\$ 8,000.00

Therefore, the total Change Order No. 1 amount for additional preliminary, design, and construction engineering services is Thirteen Thousand Nine Hundred Fifty dollars and Zero cents (\$13,950.00).

The portion of the engineering services which should be assigned to TOPS is tabulated as follows:

<i>TOPS PRELIMINARY ENGINEERING</i>	
Service Item	Contract Budget
Geotechnical Investigation	350.00
Site Survey/Mapping	8,750.00
Prelim. Rd. Analyses & Cost Est.	600.00
TOPS Prelim. Engineering	\$ 9,700.00

<i>TOPS DESIGN ENGINEERING</i>	
Service Item	Contract Budget
Road Design	1,800.00
Drainage Design	900.00
Contract/Specifications	700.00
Final Bid Documents	900.00
Final Cost Estimate	200.00
SWMP and Permit App.	600.00
Meetings/Correspondence	400.00
TOPS Design Engineering	\$ 5,500.00

<i>TOPS CONSTRUCTION ENGINEERING</i>	
Service Item	Contract Budget
Bid Process	600.00
Offset Staking	2,250.00
Blue Top Staking	2,750.00
Calcs./Misc.Layout/Replacement	4,100.00
Materials Testing	5,600.00
Construction Review	4,500.00
Contract Administration	1,300.00
As-Builts/Closeout	550.00
TOPS Const. Engineering	\$ 21,650.00

Therefore, the total portion of the preliminary, design, and construction engineering services associated with Trujillo Road in the Town of Pagosa Springs (approximately 1,900 linear feet) is Thirty Six Thousand Eight Hundred Fifty dollars and Zero cents (\$36,850.00).

Two Original Change Order No. 1 request forms have been included for execution. You will note these are a change to the overall contract with the County, which also includes Cloud Cap and the Asphalt Maintenance projects. Please return a signed copy of the change order to us for our records. We have also included a preliminary project cost estimate of the TOPS portion of Trujillo Road, as requested. Let me know if you have any questions or need any additional information.

Sincerely,

Michael M. Davis

Encl.: Change Order No. 1 (Two Originals)
Cost Est. TOPS portion of Trujillo Road



AGENDA DOCUMENTATION

OLD BUSINESS: VI.1

PAGOSA SPRINGS TOWN COUNCIL
APRIL 23, 2015

FROM: JAMES DICKHOFF, TOWN PLANNING DIRECTOR

PROJECT: MARIJUANA CULTIVATION
ACTION: DISCUSSION AND POSSIBLE ACTION

PURPOSE/BACKGROUND

As the Town Council considers certain aspects of the proposed retail / medicinal marijuana ordinance, one consideration for the ordinance is the cultivation of marijuana; "Optional Premise Cultivation Operations" are connected to a medical marijuana establishment and "Retail Marijuana Cultivation Facilities" are connected to a retail marijuana store.

Archuleta County has adopted regulations that require at least 70% of the marijuana sold in Retail and Medical establishments to be cultivated on the same site as the retail /medical sales establishment.

During previous Town Council discussions, it appeared there was the general opinion that allowing off site cultivation may allow for more flexibility of potential marijuana sales establishment location opportunities.

ANALYSIS

Current marijuana establishment operators in Archuleta County have indicated they support the Archuleta County's 70% cultivation rule, which helps maintain local jobs and allows enough flexibility to order product from outside the county in case of crop failure or high sales demand.

The Town's LUDC currently allows Commercial greenhouses as a use by right in the Mixed-Use Corridor (MU-C), Commercial (C) and Light Industrial (LI) zone districts. The LUDC allows commercial greenhouses with a Conditional Use Permit (CUP) in the Mixed Use –Town Center (MU-TC) , Mixed Use Residential (MU-R) and Agricultural/Residential (RA) zone districts.

ATTACHMENTS:

None

FISCAL IMPACT

Regarding the choice of cultivation, requiring a certain percentage to be grown locally will enhance local jobs, which will in turn will benefit local sales tax collections.

RECOMMENDATION

In this case, it is staff's recommendation the Town Council consider the following action:

"Move to direct staff to incorporate into the proposed medical and retail marijuana Ordinance a provision requiring at least 70% of marijuana be cultivated within Archuleta County".



AGENDA DOCUMENTATION

OLD BUSINESS:VI.2

PAGOSA SPRINGS TOWN COUNCIL
APRIL 23, 2015

FROM: JAMES DICKHOFF, TOWN PLANNING DIRECTOR

PROJECT: MARIJUANA ESTABLISHMENT LICENSING PUBLIC HEARINGS
ACTION: DISCUSSION AND POSSIBLE ACTION

PURPOSE/BACKGROUND

As the Town Council considers certain aspects of the proposed retail / medicinal marijuana ordinance, one consideration for the ordinance is the consideration of requiring a public hearing during the consideration of issuing a Marijuana Establishment business license.

On April 7, 2015, the Town Council decided to serve as the Licensing Authority for the Town. In this capacity, the Licensing Authority (TC) would consider Marijuana Establishment business license applications for approval or denial and the processing of such applications. There was some TC discussion if a public hearing should be required for the consideration of Marijuana Establishment business license applications within the Town.

ANALYSIS

Archuleta County has adopted regulations that designates the Board of County Commissioners as the Licensing Authority for the county. These regulations do not require a public hearing for the consideration of issuing licenses.

In the considering if a public hearing should be required, it is worth mentioning the current public notification requirements within the Town's LUDC. Such public notifications for a public hearing include:

- 1) Published public Notice of Public Hearing in the Sun Newspaper, published at least 15 days prior to the hearing.
- 2) Sign Posted on subject property noticing the public hearing time and date, at least 15 days prior to the hearing.
- 3) Notification of public hearing time and date mail, via certified mailing, to all property owners within 300 feet of the subject property, at least 15 days prior to the hearing.
- 4) Notification of public hearing time and date posted in the Town Hall Bulletin Board, at least 15 days prior to the hearing.

The Town does not require public hearings for Alcohol Establishment business licensing considerations, unless a conditional use permit application is associated with such application.

ATTACHMENTS:

None

FISCAL IMPACT

Regarding the choice of requiring a public hearing for considering Marijuana Establishment business license applications, no financial impact is expected to the Town. The applicant is typically required to reimburse the Town for all expenses associated with processing the application, including costs of public notification.

RECOMMENDATION

In this case, it is staff's recommendation the Town Council consider one of the following alternative actions:

- 1) **"Move to direct staff to incorporate into the proposed medical and retail marijuana Ordinance a provision REQUIRING a public hearing for considering Marijuana Establishment business license applications"**
- 2) **"Move to direct staff to incorporate into the proposed medical and retail marijuana Ordinance a provision to NOT REQUIRE a public hearing for considering Marijuana Establishment business license applications, unless a conditional use permit is required for a portion or all of the application being considered"**

ORDINANCE 12-2014

**AN ORDINANCE
FOR THE
REGULATION AND LICENSING
OF
MARIJUANA BUSINESS ESTABLISHMENTS**

WHEREAS, the General Assembly enacted the Colorado Medical Marijuana Code (C.R.S. §12-43.3-101, et seq., hereafter, “ Colorado Medical Marijuana Code”) to implement Amendment 20 to the Colorado Constitution authorizing the use of marijuana for medical purposes; and

WHEREAS, subsequent to the adoption of the Colorado Medical Marijuana Code, the Colorado Department of Revenue adopted 1 CCR 212-1, Series 100 through 1400, Medical Marijuana Rules; and

WHEREAS, subsequent to the enactment of the Medical Marijuana Code, Colorado voters enacted Amendment 64 to the Colorado Constitution (Article XVIII, §16 to the Constitution) authorizing specified non-medical marijuana establishments and non-medical marijuana use, now known as “retail” marijuana establishments and use; and

WHEREAS, pursuant to Amendment 64, the General Assembly enacted the Colorado Retail Marijuana Code (CRS §12-43.4-101, et seq., hereafter, “ Colorado Retail Marijuana Code”) governing retail marijuana establishments and use as more particularly described in the Colorado Retail Marijuana Code; and

WHEREAS, subsequent to the adoption of the Colorado Retail Marijuana Code, the Colorado Department of Revenue adopted 1 CCR 212-2, Series 100 through 1400, Retail Marijuana Rules; and

WHEREAS, the majority of voters in Archuleta County voting on the legalization of medical marijuana and retail marijuana have approved it, including approving Amendment 20 and Amendment 64; and

WHEREAS, pursuant to Amendment 64, and the Colorado Retail Marijuana Code, including specifically, §§12-43.4-104(3) and 309(1), counties may adopt regulations governing the time, place, manner and number of retail marijuana establishments, which may include a local licensing requirement, that are at least as restrictive as the provisions of the Retail Marijuana Code; and

WHEREAS, the Archuleta County Board of County Commissioners is authorized by CRS §30-11-101(2) to adopt and enforce ordinances and resolutions regarding health, safety, and welfare issues as otherwise prescribed by law, and provide for the enforcement thereof; and

WHEREAS, the Board has determined that adopting regulations governing the time, place and manner of operating retail marijuana establishments in unincorporated Archuleta County will serve the health, safety and welfare of the community; and

WHEREAS, the Board has determined that the efficient administration of medical marijuana and retail marijuana laws and regulations encourages that it adopt a single set of regulations applicable to both medical marijuana and retail marijuana to the extent that doing so conforms to the requirements of the Medical Marijuana Code and the Retail Marijuana Code; and

WHEREAS, the Board has considered the testimony and opinions of persons interested in marijuana regulation at public work sessions and at public hearings; and

WHEREAS, the Board finds it is in the interest of public health, safety and welfare that the Board adopt the Archuleta County Marijuana Licensing Regulations.

NOW, THEREFORE, BE IT RESOLVED, that the Archuleta County Board of County Commissioners hereby adopts the Archuleta County Marijuana Licensing Regulations attached hereto, effective July 1, 2014.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that any Moratorium effecting is rescinded, effective July 1, 2014.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ARCHULETA COUNTY:

Part I. GENERAL PROVISIONS

Section 1.01 Title

These regulations shall be known and referred to as the "Archuleta County Marijuana Licensing Regulations" (referred to herein as "Regulations").

Section 1.02 Authority

Section 14 of Article XVIII of the Colorado Constitution permits limited medical uses of marijuana under Colorado law. Section 16, Article XVIII of the Colorado Constitution permits personal use of marijuana by persons aged 21 years and older under Colorado law. To enact, restrict, and enforce the State Constitution, the General Assembly enacted the Colorado Medical Marijuana Code, Article 43.3 of Title 12, C.R.S. In addition, the Colorado Department of Revenue adopted 1 CCR 212-1, Series 100 through 1400, Medical Marijuana Rules. The Colorado Medical Marijuana Code and the Medical Marijuana Rules authorize counties and municipalities to determine whether to permit, as a matter of state law, certain medical marijuana businesses within their jurisdictions. Further, to enact, restrict, and enforce the state constitution, the General Assembly enacted the Colorado Retail Marijuana Code, article 43.4 of title 12, C.R.S. In addition, the Colorado Department of Revenue adopted 1 CCR 212-2, Series 100 through 1400, Retail Marijuana Rules, the Colorado Retail Marijuana Code and the Retail Marijuana Rules authorize counties and municipalities to determine whether to permit, as a matter of state law, certain retail (i.e. nonmedical) marijuana businesses within their jurisdictions.

Section 1.03 Purpose

1.03.1 The purpose of these regulations are to:

- (1) Authorize licensing in unincorporated Archuleta County as provided in §§ 12-43.3-301(2)(a), 12-43.4-104(3) and 12-43.4-301, C.R.S., as amended; to establish specific standards and procedures for local licensing of marijuana-related business and establishments; and to protect the health, safety, and welfare of the residents, consumers and patients of Archuleta County by prescribing the manner in which marijuana businesses can be conducted in the county.
- (2) Comply with the County's obligations under the Colorado Medical Marijuana Code;
- (3) Comply with the County's obligations under Const. Art. XVIII, §16(5)(e);
- (4) Require that medical marijuana centers, optional premises cultivation operations, and medical marijuana infused products manufacturing facilities, collectively referred to as "Medical Marijuana Establishments," shall operate in a safe manner that does not endanger the public welfare and in a manner that conforms to the Medical Marijuana Code;
- (5) Require that retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturers and retail marijuana testing facilities, collectively referred to as "Retail Marijuana Establishments," shall operate in a safe manner that does not endanger the public welfare and in a manner that conforms to the Colorado Retail Marijuana Code;
- (6) Mitigate potential negative impacts that the Medical Marijuana and Retail Marijuana Establishments may cause on surrounding properties and persons;

(7) Regulate the conduct of persons owning, operating, and using Medical Marijuana and Retail Marijuana Establishments to protect the public health, safety and welfare;

(8) Establish a nondiscriminatory mechanism by which the County appropriately regulates the Location and operation of Medical Marijuana Establishments and Retail Marijuana Establishments within the County.

1.03.2 By enacting these Regulations, Archuleta County does not intend to encourage or promote the establishment of any business or operation, or the commitment of any act, that constitutes or may constitute a violation of federal law. As of the date of the enactment of these regulations, the use, possession, distribution, and sale of marijuana is illegal under Federal law and those who engage in such activities do so at their own risk of criminal prosecution.

Section 1.04 Effective Date and Applicability of Regulations

1.04.1 *Effective date.* Except as provided in section 1.04.3, as of July 1, 2012, it shall be unlawful to operate any business in unincorporated Archuleta County for which a license is required under the Colorado Medical Marijuana Code without first having obtained a local license under these regulations and a state license under state code. As of October 23, 2013, it shall be unlawful to operate any business in unincorporated Archuleta County for which a license is required under the Colorado Retail Marijuana Code without first having obtained a local license under these regulations and a state license under state code. Provided, further, this ordinance is necessary to the immediate preservation of the public health and safety, due to the immediate impact upon surrounding residences, churches and schools from the attraction of transients, parking and traffic problems, the potential for increased crime and noise, increased safety hazards to neighborhood children, and the potential for overall deterioration of neighborhood quality, and therefore shall become effective immediately upon adoption.

1.04.2 *Applications for local licenses.* The Authority shall receive and process all applications for medical marijuana centers and optional premises medical marijuana cultivation operations. The Authority shall accept and process applications for retail marijuana stores and retail marijuana cultivation facilities, license beginning on July 1, 2014.

1.04.3 *Pre-existing businesses.* Any person who is lawfully engaged in the business of selling, cultivating, or manufacturing medical marijuana as permitted by the Colorado Medical Marijuana Code and the Archuleta County Land Use Code prior to the effective date in Section 1.04.1, may continue in business if, on or before January 1, 2014, the person submitted an application for local licensing under these regulations. If an application is submitted according to this subsection, the business may continue until such time as the state or local licensing application is denied or the state or local license is revoked. Provided, further, any local license issued pursuant to the provisions of Ordinance No. 11-2013, an Ordinance Enabling the Operation of Certain Medical Marijuana Operations Pursuant to and Consistent with Article XVIII, Section 14 of the Colorado Constitution and Declaring effective Date which is valid and effective as of the date these Regulations are promulgated, shall be deemed to have been issued pursuant to these Regulations, and the provisions of these Regulations shall govern the expiration, renewal, revocation, suspension and transfer of such license.

1.04.4 *Dual Licenses.* Dual operation of a licensed medical marijuana center, optional premises cultivation facility, or medical marijuana-infused products manufacturing facility and any retail marijuana facility is permitted so long as appropriate State and local licenses have been issued and remain valid and active for both operations. No dual medical marijuana center and retail marijuana store is permitted to sell marijuana to persons younger than twenty-one years of age, except that Medical Marijuana products may be sold to a person at least eighteen years of age, as allowed by State law.

1.04.5 *No entitlement of vested right.* No person shall have any entitlement or vested right to licensing under these regulations, the Colorado Medical Marijuana Code, the Colorado Retail Marijuana Code, Archuleta County zoning approvals, or Archuleta County building permits. To lawfully engage in the business of selling, cultivating, or manufacturing marijuana in unincorporated Archuleta County, all persons must obtain a license under these regulations. Such a license is a revocable privilege subject to the will and scrutiny of local and state authorities.

1.04.6 These Regulations apply only to the unincorporated areas of Archuleta County, Colorado.

1.04.7 *Relationship to Ordinance No. 11-2013.* The provisions of this Ordinance shall control the operations of all Retail Marijuana and Medical Marijuana Establishments in Archuleta County. In the event of a conflict between this Ordinance and Ordinance No. 11-2013, this Ordinance shall control. Provided, further, Ordinance No. 11-2013 shall be repealed.

Section 1.05 Definitions

1.05.1 Unless otherwise expressly provided, the definitions in the Colorado Medical Marijuana Code, including the definitions in C.R.S. §12-43.3-104, shall apply in these Regulations with respect to Medical Marijuana Establishments.

1.05.2 Unless otherwise expressly provided, the definitions in the Colorado Retail Marijuana Code, including the definitions in C.R.S. §12-43.4-103 and §12-43.4-305(1), shall apply in these Regulations with respect to Retail Marijuana Establishments.

1.05.3 The following words, terms and phrases, when used in these Regulations, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) “*Authority,*” “*Archuleta County Local Licensing Authority*” and “*Local Licensing Authority*” have the same meaning for the purposes of these Regulations.

(2) "*Good Cause*", for purposes of refusing or denying a license issuance, renewal or transfer means:

(a) The Licensee or applicant has violated, does not meet, or has failed to comply with any of the terms, conditions, or provisions of these Regulations, the Colorado Medical Marijuana Code, the Colorado Retail Marijuana Code, or the state administrative regulations promulgated pursuant thereto, as applicable;

(b) The Licensee or applicant has failed to comply with any special terms or conditions that were placed on its license pursuant to an order of the State or Local Licensing Authority;

(c) The Licensed Premises have been operated in a manner that adversely affects the public health or welfare or the safety of the immediate neighborhood in which the establishment is located; or

(d) The Licensed Premises have been inactive without justification for at least one year.

(3) "*Licensed Premises*" means the premises specified in a license under these Regulations, which are owned or in possession of the Licensee and within which the Licensee is authorized to cultivate, manufacture, distribute, sell or test medical marijuana and/or retail marijuana in accordance with the provisions of the Colorado Medical Marijuana Code or Colorado Retail Marijuana Code, as applicable, and these Regulations. "Licensed Premises includes and off-premises storage facility owned, operated or used by the Licensee.

(4) "*Licensee*" means a person licensed pursuant to these Regulations.

(5) "*Location*" means a particular parcel of land that may be identified by an address or other descriptive means.

(6) "*Medical Marijuana Establishment*" means a medical marijuana center, medical marijuana-infused products manufacturer, and/or optional premises cultivation operation, each as defined in the Colorado Medical Marijuana Code.

(7) "*Owner*" means any person having a beneficial interest, as defined by the State Licensing Authority, in a Medical or a Retail Marijuana Establishment.

(8) "*Premises*" means a distinctly identified, as required by the State Licensing Authority, and definite Location, which may include a building, a room, or any other definite contiguous area.

(9) "*Retail Marijuana Establishment*" means a retail marijuana store, and/or retail marijuana cultivation facility, each as defined in the Colorado Retail Marijuana Code.

(10) “Sale” or “Sell” includes to exchange, barter, or traffic in, to solicit or receive and order except through a licensee licensed under these Regulations, to deliver for value in any way other than gratuitously, to peddle or possess with intent to sell, or to traffic in for any in for any consideration promised or obtained directly or indirectly.

Section 1.06 Adoption of Colorado Medical Marijuana Code, Colorado Retail Marijuana Code, and State Administrative Regulations

1.06.1 Except where the provisions expressly set forth in these Regulations are inconsistent with or differ from the Colorado Medical Marijuana Code or the state administrative regulations promulgated pursuant thereto, all of the provisions of the Colorado Medical Marijuana Code and the state administrative regulations promulgated pursuant thereto, each as they are amended from time-to-time, are adopted herein by this reference, and apply to all applications received and licenses issued by the Local Licensing Authority with respect to Medical Marijuana Establishments.

1.06.2 Except where the provisions expressly set forth in these Regulations are inconsistent with or differ from the Colorado Retail Marijuana Code or the state administrative regulations promulgated pursuant thereto, all of the provisions of the Colorado Retail Marijuana Code and the state administrative regulations promulgated pursuant thereto, each as they are amended from time-to-time, are promulgated herein by this reference, and apply to all applications received and licenses issued by the Local Licensing Authority with respect to Retail Marijuana Establishments.

1.06.3 If there is a conflict between the provisions of these Regulations and the Colorado Medical Marijuana Code, the Colorado Retail Marijuana Code, or the state administrative regulations promulgated pursuant to them, respectively, the provisions of these Regulations control to the fullest extent permitted by applicable law.

Section 1.07 Licenses and Grant of Authority for Dual Licenses

1.07.1 The Authority is authorized to issue the following local licenses should the applicant fulfill the requirements: medical marijuana center license; optional premises cultivation license; medical marijuana-infused products manufacturing license; retail marijuana store license; and retail marijuana cultivation facilities license. The license requirements in these regulations shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any other federal, state, or local law.

1.07.2 A person may operate a licensed Medical Marijuana Center, Optional Cultivation Facility or Medical Marijuana-infused Products Manufacturing Facility and any licensed Retail Marijuana Establishment at the same Location if the Local Licensing Authority determines that the operations will meet the requirements of these Regulations.

1.07.3 The license does not provide any exception, defense, or immunity to any person in regard to any potential criminal liability the person may have for the production, distribution, or possession of marijuana. A valid license shall be required from the State of Colorado as provided by the Colorado Medical Marijuana Code and the Colorado Retail Marijuana Code.

Section 1.08 County Reservations

1.08.1 Adoption of these Regulations is not intended to waive or otherwise impair any portion of the local option available under Colorado Constitution Art. XVIII, §16(5)(f), C.R.S. §12-43.3-106, or C.R.S. 12-43.3-104.

1.08.2 Adoption of these Regulations is not intended to waive or otherwise impair the County's authority to adopt specific or different standards or other regulations for the issuance and administration of local licenses from time-to-time.

Section 1.09 Operation Limitations

1.09.1 Licensees shall be subject to the following additional operation limitations:

1.09.1.1 All product storage shall be indoors. Marijuana products and accessories or paraphernalia used or intended to be used to consume them shall not be visible from a public sidewalk or right-of-way or an adjacent property.

1.09.2 Each Medical and Retail Marijuana Establishment shall be operated from a permanent Location. No Medical or Retail Marijuana Establishment shall be permitted to operate from a moveable, mobile or transitory Location. Notwithstanding anything to the contrary herein, delivery of medical marijuana is permissible if it complies with state law provided it originates from a non-moveable, fixed, licensed location and such delivery sales account for less than ten (10%) percent of the Medical Marijuana Establishments total sales.

1.09.3 A Medical Marijuana Center and Retail Marijuana Store may be open for the sale of medical or retail marijuana only between the hours of 8 a.m. to 7 p.m.

1.09.4 No Medical Marijuana Establishment or Retail Marijuana Establishment may use metals, butane, propane, or other solvent or flammable product, or produce flammable vapors to process marijuana unless the process used and the premises are verified as safe and in compliance with all applicable codes. The Authority in its sole and unfettered discretion may, at any time, require an applicant or licensee to engage an Industrial Hygienist, at applicant or licensees cost, to review the manner in which butane, propane or other solvents or flammable products are stored, used or controlled on the licensed premises for the purpose of opining on the safety precautions in place. Such Industrial Hygienist may make recommendations which the County may require the applicant or licensee to implement.

1.09.5 No Retail Marijuana Establishment is permitted to sell marijuana to persons younger than twenty-one years of age and must post signage that clearly states: "You must be at least 21 years old to enter." No Medical Marijuana Establishment is permitted to sell marijuana to persons younger than eighteen years of age and must post signage that clearly states: "You must be at least 18 years old to enter" where any marijuana products are visible.

1.09.6 All retail marijuana labels must contain the statement: "It is illegal to transfer or sell retail marijuana or retail marijuana products to anyone under the age of 21." All medical marijuana labels must contain the statement: "It is illegal to transfer or sell medical marijuana or medical marijuana products to anyone under the age of 18."

1.09.7 For dual medical marijuana center and retail marijuana stores, the business shall verify the proof of age of every person entering the business with an electronic ID scanner. An "electronic ID scanner" is a device that is capable of quickly and reliably confirming the validity of an identification using computer processes.

1.09.8 All cultivation, production, distribution, storage, display, and sales of marijuana and marijuana-infused products must not be visible from the exterior of the business.

1.09.9 All retail sales of retail marijuana must be in person, directly to the purchaser. No sales may be finalized by telephone, internet, or other means of remote purchase.

1.09.10 All lamps must be recycled and not deposited in a trash receptacle or landfill. The time, date, and location of all lamps recycled must be documented and available for inspection.

1.09.11 Medical Marijuana Establishments and Retail Marijuana Establishments stores may not distribute to a consumer, marijuana or marijuana-infused products free of charge.

1.09.12 All Medical Marijuana Establishments and Retail Marijuana Establishments are subject to the requirements of the Archuleta County Land Use Regulations including Section 7 thereof, the Sign Regulations and the restrictions on advertising and marketing under the Colorado Retail Marijuana Code. In addition, no advertisement for marijuana or marijuana products are permitted on signs mounted on vehicles, hand-held or other portable signs, handbills, leaflets or other flyers directly handed to any person in a public place, left upon a motor vehicle or posted upon any public or private property without consent of the property owner. This prohibition shall not apply to (1) any advertisement contained within a newspaper, magazine or other periodical of general circulation within the County or on the internet; (2) advertising which is purely incidental to sponsorship of a charitable event not geared to or for the benefit of children or youth. Provided, further, no exterior signage shall use the word "marijuana," "cannabis" or any other word, phrase, symbol, acronym or combination of letters or numbers commonly understood to refer to marijuana.

1.09.13 A marijuana business may sponsor a charitable, sports, or similar event, but a marijuana business must not engage in advertising at, or in connection with, such an event unless the marijuana business has reliable evidence that no more than 30 percent of the audience at the event and/or viewing advertising in connection with the event is reasonably expected to be under the age of 21.

1.09.14 All Medical Marijuana Establishments or Retail Marijuana Establishments shall collect and remit all applicable State and County sales taxes in a timely manner. Their State and County license to engage in a Medical Marijuana Establishment or Retail Marijuana Establishment shall be posted along with the State sales tax license.

1.09.15 Any Medical Marijuana Establishments or Retail Marijuana Establishments within the County shall be required to have a fully operational alarm system which must be properly maintained. Such alarm systems shall have video surveillance coverage of the premises at all times and shall have redundant power supplies and circuitry to prevent de-activation, either intentional or unintentional. If an alarm system is deactivated, the company monitoring the systems must immediately notify the Archuleta County Sheriff's department.

1.09.16 Medical Marijuana Establishments or Retail Marijuana Establishments shall be equipped with a steel door or a solid wood core door with dead bolts in place and engaged for purposes of securing the space or location where marijuana or marijuana-infused products are stored, or where any marijuana transaction is to take place. In addition thereto, each marijuana business shall be equipped with at least one silent alarm for every 500 square feet of interior business space.

1.09.17 All inventory, containing any form of marijuana, must be placed within a locked safe on the premises during hours that the business is closed. The safe must be securely bolted to the floor or installed as part of the foundation of the building in which the marijuana business is located. Five Hundred (\$500) dollar retail value of marijuana shall be stored in a secured refrigerator which is maintained in a secure area of premises and approved by the State.

1.09.18 It shall be unlawful for any marijuana business to employ any person who is not at least 21 years of age.

1.09.19 No Medical Marijuana Establishment or Retail Marijuana Establishment shall be managed by any person other than the licensee or the business manager listed on the application for the license, renewal application, or change of manager application. One such licensee or business manager shall be responsible for all activities within the licensed premises during all times when the business is open and in the case of an emergency, as determined by the Chairman of the Authority available to be on the premises within thirty minutes of a demand for such person to be present being made at the establishment.

1.09.20 There shall be posted in a conspicuous location in each Medical Marijuana Establishment or Retail Marijuana Establishment a legible sign containing the following warnings:

(1) A warning that the use of marijuana may impair a person's ability to drive a motor vehicle or operate machinery, and that it is illegal under state law to drive a motor vehicle or operate machinery when under the influence of or impaired by marijuana;

(2) A warning that possession and distribution of marijuana is a violation of federal law; and

(3) That smoking of marijuana in public is illegal.

1.09.21 Medical Marijuana Establishments and Retail Marijuana Establishments are required pursuant to the Colorado Retail Marijuana Code, the Retail Marijuana Rules, the Colorado Medical Marijuana Code or the Medical Marijuana Rules to maintain certain business records. Any and all such records required to be maintained shall be open at all times during business hours for inspection and examination by the County Administrator or his duly authorized representative(s). Provided, further, the County may require the licensee to furnish such information as it considers necessary for the proper administration of this Ordinance.

1.09.22.1 By accepting a Medical Marijuana Establishment license or a Retail Marijuana Establishment license, the licensee is providing consent to disclose any information received by the County including but not limited to information obtained pursuant to Section 1.09.21 above and further, if applicable, to include information about the number of patients and caregivers. Any records provided by the licensee that include patient or caregiver confidential information may be submitted in a manner that maintains the confidentiality of the document(s) under the Colorado Open Records Act [C.R.S. §24-72-201, *et seq.*] or other applicable law. Any document that the applicant considers eligible for protection under the Colorado Open Records Act shall be clearly marked as confidential and the reasons for such confidentiality shall be stated on the document including but not limited to reference to the statutory authority under which confidentiality is claimed. The County will not disclose documents appropriately submitted under the Colorado Open Records Act [C.R.S. §24-72-201, *et seq.*] as confidential documents to any party other than law enforcement agencies. Provided, further, all Medical marijuana establishments shall provide the Authority with a monthly patient & Plant Count which report shall exclude names but provide medical marijuana registration numbers and the number of plants associated with such patient.

1.09.22.2 The County may require an audit to be made of such books of account and records as it may deem necessary. Such audit may be made by an auditor selected by the County, who shall likewise have access to all books and records of such licensee. The expense of any audit determined to be necessary by the County, shall be paid by the County; provided, however, should the audit reflect a failure of the licensee, in whole or in part, to timely remit all sales taxes due to the County, the expense of the audit shall be paid by the licensee.

1.09.3 Acceptance of a Medical Marijuana Establishment license of any type, a Retail Marijuana Establishment license of any type or a Dual License from the County constitutes consent by the licensee, owners, managers and employees of such business to permit the County Administrator or his authorized representatives, to conduct routine inspections of the licensed Medical marijuana business or any records related thereto to assure compliance with this Ordinance or any other applicable law, rule or regulation.

Section 1.10 Prohibited Locations

1.10.1 Medical Marijuana Establishments or Retail Marijuana Establishments may be allowed in the commercial or industrial zones.

1.10.2 No Medical Marijuana Establishment or Retail Marijuana Establishment shall be licensed to operate at a Location that is within 1000 feet from any school as “school” is defined in these Regulations, any licensed day care facility, church or dedicated public park, whether located within or outside the corporate limits of any municipality within the county. The suitability of a location for the Medical Marijuana Establishment or Retail Marijuana Establishment shall be determined at the time of the issuance of the first license for such business. The fact that changes in the neighborhood that occur after the issuance of the first license might render the site unsuitable for a Medical marijuana business under this section shall not be grounds to suspend, revoke or refuse to renew the license for such business so long as the license for the business remains in effect. Nothing within this section shall preclude the establishment of a public, private or charter school, licensed day care facility, licensed pre-school, church or dedicated Public Park within 1000 feet of a pre-existing Medical Marijuana Establishment or Retail Marijuana Establishment.

1.10.3 Notwithstanding anything to the contrary herein, even if a Medical Marijuana Establishment or Retail Marijuana Establishment is located within a commercial or industrial zoned area such business must be no less than 250 feet from any Residential or Planned Unit Development zoned area; provided, however, the distance between the Medical Marijuana Establishment or Retail Marijuana Establishment and the area zoned as Residential or Planned Unit Development may be less than 250 feet if there exists between the Medical Marijuana Establishment or Retail Marijuana Establishment and the Residential or Planned Unit Development zoned area a United States Highway such as U.S. Highway 160.

1.10.4 The distances referred to in this Section 1.10.2 are to be computed by direct measurement from the nearest property line of the land used for either the public, private or charter school, licensed day care facility, licensed pre-school, church, dedicated Public Park or land which comprises residential or planned unit development zoned area to the nearest portion of the building in which Medical Marijuana Establishment or Retail Marijuana Establishment products are to be sold.

1.10.5 No License may be issued to operate a Medical Marijuana Establishment or Retail Marijuana Establishment in a residential zone district as a “home occupation” under the Archuleta County Land Use Regulations.

Part II. LOCAL LICENSING AUTHORITY

Section 2.01 Establishment of Local Licensing Authority

The Archuleta County Local Licensing Authority shall be the Archuleta County Board of County Commissioners. The Chairman and Vice-chairman of the Board of County Commissioners shall be, respectively, the Chairman and Vice-chairman of the Local Licensing Authority.

Section 2.02 Clerk

The Archuleta County Local Licensing Authority shall have the authority to designate deputies from time to time.

Section 2.03 Powers

2.03.1 The Local Licensing Authority shall have the powers described in the Medical Marijuana Code and Retail Marijuana Code, including to hear and determine at a public hearing any contested local license denial, any complaints against a Licensee, and administer oaths and issue subpoenas to require the presence of persons and the production of papers, books, and records necessary to the determination of any hearing so held. In the absence of the Chairman, the Vice-chairman may exercise the powers of the Local Licensing Authority.

2.03.2 The Local Licensing Authority shall serve as the entity for unincorporated Archuleta County that is responsible for processing applications submitted for a license to operate a marijuana establishment in the circumstances as provided in Colo. Const. Art. XVIII, §16(5)(e).

Part III. LICENSES

Section 3.01 Medical Marijuana Licenses

The Archuleta County Local Licensing Authority shall issue local licenses to applicants only for the purpose of operating a Medical Marijuana Establishment pursuant to the Medical Marijuana Code who fulfill the requirements for one of the following:

- (1) medical marijuana center;
- (2) medical marijuana-infused products manufacturer;
- (3) optional premises cultivation operation;

Due to impacts on adjoining properties, including fire, safety, and health risks associated with such facilities, Marijuana growing operations, such as the optional premises cultivation license referenced in C.R.S. §12-43.3-403, are prohibited in the County except those i) growing in connection with the operation of a Medical marijuana center, ii) where the growing center and the Medical marijuana center have identical ownership; **and**, iii) where the operations are on the same or adjacent parcels for property tax purposes.

Section 3.02 Retail Marijuana Licenses

The Archuleta County Local Licensing Authority shall issue local licenses to applicants only for the purpose of operating a Retail Marijuana Establishment pursuant to the Retail Marijuana Code who fulfill the requirements for one the following:

- (1) retail marijuana store; and
- (2) retail marijuana cultivation facility;

Due to impacts on adjoining properties, including fire, safety, and health risks associated with such facilities, Marijuana growing operations, such as the optional premises cultivation license referenced in C.R.S. §12-43.3-403, are prohibited in the County except those i) growing in connection with the operation of a Retail marijuana center, ii) where the growing center and the Retail marijuana center have identical ownership; **and**, iii) where the operations are on the same or adjacent parcels for property tax purposes.

Section 3.03 Nature of Local License

A local license pursuant to these Regulations shall apply to a specific person, a particular Marijuana Establishment, and a specific Premises, and will not be transferrable to another person, a different Establishment, or different Premises except as provided by these Regulations. An application to “convert” a state license for a Medical marijuana Establishment to a Retail Marijuana Establishment license requires an application for a new license for purposes of these Regulations and, if the Medical Marijuana Establishment license being converted was issued by the Archuleta County, the surrender of that license to Archuleta County.

Section 3.04 Condition of Local License For Release of Archuleta County

It shall be a condition of all local licenses that the applicant/Licensee releases Archuleta County from liability to the applicant/Licensee and also agrees to indemnify, defend and hold harmless Archuleta County from liability arising from injuries and damages substantially in the form in Appendix A to these Regulations.

Part IV. LICENSES REQUIRED

Section 4.01 Unlawful Acts

4.01.1 For any business, establishment, facility or activity which is required by the Medical Marijuana Code to have a state license, it is unlawful and a violation of these Regulations to operate in unincorporated Archuleta County without both a current state license and a current license issued by the Local Licensing Authority pursuant to these Regulations of the same type for the same activity at the same Location.

4.01.2 For any business, establishment, facility or activity which is required by the Retail Marijuana Code to have a license, it is unlawful and a violation of these Regulations to operate in unincorporated Archuleta County without both a state license and a license issued by the Local Licensing Authority pursuant to these Regulations of the same type for the same activity at the same Location.

4.01.3 A person shall not have a financial interest in a license issued pursuant to these Regulations that has not been reported to the Local Licensing Authority and State Licensing Authority. This subsection shall not apply to banks, savings and loan associations or industrial banks supervised and regulated by an agency of the state or federal government.

4.01.4 No Retail Marijuana Establishment license shall be effective before July 1, 2014.

Section 4.02 Coordination of Local and State Licenses

4.02.1 A Medical Marijuana Establishment or a Retail Marijuana Establishment licensed pursuant to these Regulations shall not operate unless it also has a valid license of the same type for the same activity at the same Location issued by the State Licensing Authority pursuant to the Medical Marijuana Code and Retail Marijuana Code, and the state administrative regulations promulgated pursuant thereto, as applicable. Provided, however, if a Medical Marijuana Establishment or a Retail Marijuana Establishment has been authorized by the State of Colorado to operate by virtue of the State having not acted on their license application within forty-five (45) days then the establishment may operate pending the issuance of a state license.

4.02.2 Upon denial of a State license for a Medical Marijuana Establishment or Retail Marijuana Establishment which has been issued a license under these Regulations, the local license shall be revoked.

4.02.3 If a license is suspended or revoked by the State Licensing Authority, the Licensee shall immediately cease operation of the Marijuana Establishment in this County until the state license is re-instated during the term of a valid local license. The Local Licensing Authority may suspend or revoke the local license upon the suspension or revocation of the State license.

4.02.4 Upon the surrender of a State license for a Medical Marijuana Establishment or Retail Marijuana Establishment which has been issued a license under these Regulations, the local license shall be deemed surrendered and of no further effect. Existing marijuana products and/or inventory shall be disposed of as provided in the Order of suspension or revocation.

Section 4.03 Duration of Local Licenses

4.03.1 Except as provided in Section 4.03.2 below, any local license issued under these Regulations shall be valid for a period of one year from the date of issuance unless sooner revoked, surrendered by the Licensee, or otherwise terminated. Notwithstanding the foregoing, the Local Licensing Authority may change the duration to no fewer than ten months and no more than fourteen months if deemed appropriate to synchronize the license periods of the license and the corresponding license of the same type for the same activity at the same Location issued by the State Licensing Authority pursuant to the Medical Marijuana Code or Retail Marijuana Code, and the state administrative regulations promulgated pursuant thereto, as applicable.

4.03.2 A Retail Marijuana Establishment license that was fully converted from a Medical Marijuana Establishment license will assume the balance of the license term previously held by the surrendered Medical Marijuana Establishment license.

4.03.3 If a court of competent jurisdiction having jurisdictional effect in Colorado determines that the issuance of local licenses, or some of them, violates federal law, and such decision becomes final and un-appealable, all such licenses issued under these Regulations shall be deemed immediately revoked by operation of law, with no ground for appeal or other redress on behalf of the Licensee.

Section 4.04 License Contents

The licenses issued pursuant to these Regulations must specify the date of issuance, the period the license is effective, the name of the Licensee, and the Premises licensed.

Part V. LICENSE APPLICATIONS

Section 5.01 Licensing Procedure.

5.01.1 General Procedure. The Authority shall consider and act upon all complete local license applications as authorized by these regulations. The Authority shall defer to the State to enforce compliance with the requirements in the Colorado Medical Marijuana Code and the Colorado Retail Marijuana Code and any other State regulations not covered by these regulations. The Authority shall grant or deny a license based solely upon the Authority's investigation and findings, and no public hearing shall be required. The Authority shall deny any application that is not in full compliance with these regulations.

5.01.2 Application forms.

5.01.2.1 All applications for medical marijuana center licenses; optional premises cultivation licenses; and medical marijuana-infused products manufacturing licenses, shall be made upon forms provided by the state and Local Licensing Authority and shall include the following supplemental materials: (1) identity of the owner of the property on which the premises is located; (2) a site plan of the premises; (3) a list of all other uses on the property; (4) the number of vehicle trips per day expected to be generated by the business; (5) the expected source and level of water use for the premises; (6) permits or other applicable documentation related to well use, septic system use, and water sanitation; (7) a copy of the State sales tax license for the business; (8) a narrative together with drawings for how the business will manage parking for customers and employees, including overflow parking if demand exceeds the number of spaces at the premises; (9) an explanation of any enforcement action taken by the state or any other jurisdiction with respect to any Marijuana Establishment license held by the applicant during the previous 12 months; (10) a description of all toxic, flammable, hazardous or other materials regulated by a federal, state or local government having authority (or that would have authority over the business if it was not a marijuana business), that will be used, kept, or created at the Premises (or the property of which the Premises are a part); Material Safety Data Sheets for each; the location of use and storage of each shall be identified on the site plans; (11) A plan for ventilation of the facilities that describes the ventilation systems that will be used to mitigate any odor of marijuana off the premises of the business. For Marijuana Enterprises that grow marijuana plants, such plan shall also include all ventilation systems used to control the environment for the plants and describe how such systems operate with the systems mitigating

odor leaving the premises. For Marijuana Enterprises that produce marijuana products, such plan shall also include all ventilation systems used to mitigate noxious gases or other fumes used or created as part of the production process; (12) an inspection of the Licensed Premises fully equipped per the current plan of operation from a state electrical inspector, master electrician licensed in Colorado or electrical engineer registered in Colorado for compliance with applicable electrical codes; (13) for optional premises cultivation and medical marijuana-infused products manufacturing license applications, information about which medical marijuana center is associated with the business; and (14) a detailed drawing, with scale of the floor plan.

5.01.2.2 All applications for retail marijuana store licenses, and retail marijuana cultivation facilities licenses shall be made upon forms provided by the state or Local Licensing Authority and shall include: (1) a site plan of the premises; (2) a list of all proposed changes or modifications to the premises, including any such proposed changes that are purposed because of State licensing requirements; (3) a narrative together with drawings for how the business will manage parking for customers and employees, including overflow parking if demand exceeds the number of spaces at the premises; (4) for applications for dual medical marijuana center and retail marijuana store, specific information on the nature and location of required signage; (5) an explanation of any enforcement action taken by the state or any other jurisdiction with respect to any Marijuana Establishment license held by the applicant during the previous 12 months; (6) a description of all toxic, flammable, hazardous or other materials regulated by a federal, state or local government having authority (or that would have authority over the business if it was not a marijuana business), that will be used, kept, or created at the Premises (or the property of which the Premises are a part); Material Safety Data Sheets for each; the location of use and storage of each shall be identified on the site plans; (7) a copy of the State sales tax license for the business; (8) A plan for ventilation of the facilities that describes the ventilation systems that will be used to mitigate any odor of marijuana off the premises of the business. For Marijuana Enterprises that grow marijuana plants, such plan shall also include all ventilation systems used to control the environment for the plants and describe how such systems operate with the systems preventing any odor leaving the premises; (9) an inspection of the Licensed Premises fully equipped per the current plan of operation from a state electrical inspector, master electrician licensed in Colorado or electrical engineer registered in Colorado for compliance with applicable electrical codes; and (10) a detailed drawing, with scale of the floor plan.

5.01.2.3 A site plan of the Premises will be scaled and show the following:

- (1) The scale used;
- (2) North arrow designating true north;
- (3) Property boundaries of the Premises, indicating front, rear and side lines;
- (4) Location of all proposed buildings/structures and existing buildings/structures that will remain;

(5) Locations and dimensions of all existing and proposed roads, on and adjacent to the Premises, driveways, easements, rights-of-way, existing and proposed utilities;

(6) Setbacks from buildings and structures, measured in feet (measured from the nearest lot line, road right-of-way or platted right-of-way, whichever is closest, to the eaves or projections from the building or from decks, for all sides of a structure);

(7) Platted building envelope(s), if applicable;

(8) Parking areas and spaces;

(9) Location of signs/advertising, outdoor lighting, landscaping and/or fencing, structural screening elements;

(10) Total acreage or square footage of the Premises; and

(11) Total square footage of all buildings and total square footage of building footprints.

5.01.3 All applications for licenses involving cultivation of marijuana shall submit a plan that specifies whether and how CO₂ gas will be used in the cultivation and the location of the generation, use and storage shall be identified on the site plans.

5.01.4 The Authority may, at its discretion, waive specific submission requirements or require the submission of additional materials as may be useful in making a determination under these regulations.

5.01.5 An applicant must have filed a complete application for a license of the same type for the same activity at the same location to the State Licensing Authority before it may apply to the Local Licensing Authority.

5.01.6 The applicant must update any of the information required of an application by this section 5.01 in the event of any material change between the time the application is first submitted and the issuance or denial of the license.

5.01.7 By submitting a license application, the applicant and, if the applicant is not the owner, the owner of the Premises to be licensed, certify that the applicant has received permission from the Premises owner to allow inspections as may be required under the Medical Marijuana Code, Retail Marijuana Code, state administrative regulations promulgated pursuant thereto, or these Regulations for purposes of local licensing. In addition, the owner of the Premises and the applicant authorize (a) the Authority and its designee, (b) Archuleta County Development Services and other departments and agencies of the County, (c) in its jurisdiction, the Pagosa Fire Protection District or its designee, (d) in its jurisdiction, the Los Pinos Fire Protection District and its designee, and (e) the Archuleta County Sheriff and his designees, to enter upon and inspect the Premises for the purposes of implementing these Regulations. (f) San Juan basin Health Department or its designee. Such inspections shall take place at reasonable times and before issuance of a local license. This section shall not in any way limit any inspection authority of any of these departments and agencies authorized under any other provision of law.

5.01.8 Other County Departments. Upon receipt of an application under the Regulations, the Authority shall circulate the application to the Planning Department, Public Works Department, the Sheriff's Office, the Archuleta County Treasurer, San Juan Basin Health District and the applicable Fire District. These departments or districts should employ their best efforts to respond within thirty days to the Authority with any concerns they have regarding the application. Failure of a referral agency to timely respond to a referral shall not constitute such Department or District's approval of the license.

Section 5.02 Processing Applications

5.02.1 No application for a license for any type of Retail Marijuana Establishment may be submitted to the Local Licensing Authority before July 1, 2014.

5.02.2 Applications shall be submitted to the Authority in care of the Authority.

5.02.3 Applications will be deemed submitted only when complete and when accompanied by the applicable fees. Notwithstanding having deemed an application complete, the Authority may, at its discretion, require the submission of additional information and materials as may be useful in investigating the application and making a determination under these Regulations.

5.02.4 Upon a determination that a complete application, including all required forms and fees, for a license has been received, the Authority will refer copies of the application or relevant portions of it to the following agencies or departments for the following purposes. These agencies and departments must submit their written findings and conclusions to Archuleta County Development Services no later than thirty days after the referral.

(1) Building Department: For determination of compliance with Archuleta County Building Regulations relative to structure features. The Building Department also shall conduct the post-approval inspections required by these Regulations as a condition of license approval.

(2) Planning Department: For determination of compliance with Archuleta County Subdivision and Zoning Regulations.

(3) San Juan Basin Health Department: For determination of compliance with sanitation system regulations and whether there are unresolved public health enforcement actions with respect to the Premises.

(4) Any other County department deemed relevant in the circumstances: For determination of compliance with its regulations.

(5) Archuleta County Sheriff: For investigation as requested by the Local Licensing Authority.

(6) Pagosa Fire Protection District or the Los Pinos Fire Protection District as appropriate, for its determination of Fire Code compliance, if appropriate.

(7) County departments shall inspect the Premises as deemed appropriate or requested by the Local Licensing Authority to confirm compliance with building and equipment standards imposed by the Medical Marijuana Code, Retail Marijuana Code, and the state administrative regulations promulgated pursuant thereto, as applicable.

5.02.5 The Local Licensing Authority may request that the State Licensing Authority advise the Local Licensing Authority of any items the State Licensing Authority finds in its investigation that could result in the denial of the state license. If the Local Licensing Authority receives such a notice from the state, it shall suspend its review of the local license until it receives a notice from the State Licensing Authority that the issues have been corrected and the applicant is eligible for a state license.

5.02.6 The Local Licensing Authority shall endeavor to take final action on a license application within ninety days after a complete application, together with all applicable fees, has been submitted. If Colorado Const. Art XVIII, §16(5)(h) or (i) apply to require the Local Licensing Authority to issue a license in lieu of license issuance by the state, a final decision on the application will be taken within ninety days of receipt of a complete application and all fees therefor.

5.02.7 The applicant shall be responsible for submitting any required application, fees and materials directly to the State Licensing Authority under the Medical Marijuana Code and the Retail Marijuana Code and the state administrative regulations promulgated pursuant thereto, as applicable.

Part VI. APPROVAL CRITERIA

Section 6.01 Basic Criteria

Before approving a local license, the Authority shall determine that all of the following requirements have been met by the Applicant:

- (1) The appropriate application is complete and the full application fee, license fee and operating fee have been paid;
- (2) Development Services has determined that the use is permitted at the Location of the Premises and the owner or operator has obtained any required approvals under the Archuleta County Land Use Regulations;
- (3) No zoning violations exist on the Premises;
- (4) All proposed signs meet the requirements of the Archuleta County Land Use regulations;
- (5) All proposed lighting meets the Archuleta County Land Use Regulations;
- (6) Any structure in which the use is located has been inspected by the Archuleta County Building Official or her designee, the structure complies with all applicable Building Regulation provisions, and all necessary building permits have been obtained;

- (7) The Premises complies with all applicable Site Development regulations including, but not limited to driveway and grading;
- (8) The Premises has all required well and sanitation system permits or is adequately served by public water and/or sewer;
- (9) The Premises is not subject to unresolved enforcement action by the San Juan Basin Health Department;
- (10) The Premises complies with the applicable Fire Code;
- (11) All property taxes have been paid and no tax liens exist on the Premises;
- (12) The applicant and Premises are in compliance with all other applicable County regulations;
- (13) The application, including any required attachments and submissions, does not contain a material falsehood or misrepresentation; and
- (14) The proposed Licensed Premises are located in a Location permitted by these Regulations.

Section 6.03 Applicant Burden of Proof

The applicant bears the burden of proving it meets all licensing requirements.

Section 6.04 State License Must Be Issued First

Before a local license may be issued, the applicant must have applied for a State license of the same type for the same activity at the same Location as provided in the Medical Marijuana Code or Retail Marijuana Code, as applicable. If the Local Licensing Authority determines it is impracticable to withhold action on an application which it would otherwise approve until a State license is issued, a local license may be issued – conditioned on the issuance of the State license – if it is demonstrated to the satisfaction of the Local Licensing Authority that the applicant is eligible to receive its state license of the same type for the same activity at the same Location based on information provided by the State Licensing Authority. If Colorado Const. Art. XVIII, §16(5)(h) or (i) apply to require the Local Licensing Authority to issue a license in lieu of license issuance by the state, the criteria applicable pursuant to the Medical Marijuana Code or Retail Marijuana Code, and the state administrative regulations promulgated pursuant thereto, as applicable, shall be applicable to the extent deemed appropriate by the Local Licensing Authority.

Section 6.05 Additional Criteria for Cultivation Operations and Facilities

6.05.1 No license shall be issued for an optional premises cultivation operation that is connected to a medical marijuana center or to a medical marijuana-infused products manufacturer for the purpose of meeting the vertical integration marijuana-supply requirements of the Medical Marijuana Code, with respect to which the center's or manufacturer's Licensed Premises are located outside Archuleta County. Due to impacts on adjoining properties, including fire, safety, and health risks associated with such facilities, Marijuana growing operations, such as the optional premises cultivation license referenced in C.R.S. §12-43.3-403, are prohibited in the County except those i) growing in connection with the operation of a Medical marijuana center, ii) where the growing center and the Medical marijuana center have identical ownership; **and**, iii) where the operations are on the same or adjacent parcels for property tax purposes.

6.05.2 No license shall be issued for a retail marijuana cultivation facility that is connected to a retail marijuana store for the purpose of meeting the vertical integration marijuana-supply requirements of the Retail Marijuana Code, with respect to which the store's or manufacturing facility's Licensed Premises are located outside Archuleta County. Due to impacts on adjoining properties, including fire, safety, and health risks associated with such facilities, Marijuana growing operations, such as the optional premises cultivation license referenced in C.R.S. §12-43.3-403, are prohibited in the County except those i) growing in connection with the operation of a retail marijuana center, ii) where the growing center and the retail marijuana center have identical ownership; **and**, iii) where the operations are on the same or adjacent parcels for property tax purposes.

Section 6.06 Buildings Must be Ready for Occupancy

No license shall be issued after approval of an application until the building in which the business is to be conducted is ready for occupancy (and, a building permit certificate of occupancy issued, if applicable) with such furniture, fixtures, and equipment in place as is necessary to comply with the applicable provisions of these Regulations, and then only after inspection of the Premises has been made by the Local Licensing Authority or State Licensing Authority to determine that the applicant has complied.

Part VII. ACTION ON APPLICATION; HEARINGS

Section 7.01 Action on Applications

7.01.1 The Local Licensing Authority shall consider and act upon all complete local license applications as authorized by these Regulations. The Authority shall deny any application that is not in full compliance with these Regulations. Except as otherwise provided in these Regulations, the Local Licensing Authority may take action administratively, without hearing, by its Chairman.

Section 7.02 Public Hearings and Public Notice

7.02.1 A public hearing may be held to consider every application for a license subject to the limitations with respect to applications to renew licenses as provided in Part IX hereof.

7.02.2 If a public hearing is held, it shall begin not less than thirty days after the date the complete application is submitted. The Authority shall cause to prepare and the applicant shall post and publish public notice thereof not less than ten days before the hearing. The Applicant shall give public notice by posting a sign in a conspicuous place on the Premises for which a local license application has been made and by publication in a newspaper of general circulation in the County.

7.02.3 Notice given by posting shall include a sign of suitable material, not less than twenty-two inches wide and twenty-six inches high, composed of letters not less than one inch in height and stating the type of license applied for, the date of the application, the date of the hearing, and the name and phone number of the applicant, and such other information as may be required to fully apprise the public of the nature of the application. If the applicant is a partnership, the sign shall contain the names and addresses of all partners, and if the applicant is a corporation, association, or other organization, the sign shall contain the names and addresses of the president, vice-president, secretary, and manager or other managing officers.

7.02.4 Notice given by publication shall contain the same information as that required for signs.

7.02.5 If the building in which the marijuana is to be sold, cultivated, processed or tested is in existence at the time of the application, any sign posted as required in this Section 7.02 shall be placed so as to be conspicuous and plainly visible to the general public. If the building is not constructed at the time of the application, the applicant shall post the premises upon which the building is to be constructed in such a manner that the notice shall be conspicuous and plainly visible to the general public.

Section 7.03 Preliminary Findings

Not less than five days before the date of hearing, if one has been set, or before taking action on the application, the Local Licensing Authority shall make known its findings based on its investigation in writing to the applicant. If a public hearing has not already been set, the applicant may request a public hearing which request shall be granted unless the recommendation is for approval.

Section 7.04 License Findings

7.04.1 Before entering any decision approving, conditionally approving or denying the application, the Local Licensing Authority shall consider, except where these Regulations specifically provide otherwise, the facts and evidence adduced as a result of its investigation, as well as any other facts, and any other pertinent matters affecting the qualifications of the applicant for operating the type of Medical or Retail Marijuana Establishment proposed.

7.04.2 Before entering any decision approving, conditionally approving or denying the application, the Authority shall make a finding as to the good moral character of the applicant in accordance with the standards and procedures set forth in the Medical Marijuana Code, Retail Marijuana Code, and the state administrative regulations promulgated pursuant thereto, as applicable. In so doing, the Authority may incorporate any findings as to good moral character previously made by the State Licensing Authority. The Authority shall not be required to perform a criminal background check: (i) if the State Licensing Authority has performed a criminal background check on the applicant to the satisfaction of the Authority; or (ii) if the Authority approves a license conditioned on the completion and successful review of the criminal background check by the State Licensing Authority.

7.04.3 Before entering any decision approving, conditionally approving or denying the application, the Authority shall make a specific finding of fact as to whether the proposed Licensed Premises is located within any distance restrictions established pursuant to Section 1.08 of these Regulations.

Section 7.05 Decision on Application

7.05.1 The Local Licensing Authority has authority to refuse to issue, renew or transfer any license for Good Cause.

7.05.2 The Local Licensing Authority may approve an application subject to conditions related to these Regulations, the Medical Marijuana Code, the Retail Marijuana Code and the state regulations promulgated pursuant thereto, as applicable.

7.05.3 Within thirty days after the public hearing or completion of the application investigation, the Local Licensing Authority shall issue its decision approving, approving with conditions or denying an application. The decision shall be in writing and shall state the reasons for the decision.

Section 7.06 Notice of Decision

The Local Licensing Authority promptly shall notify the applicant and the State Licensing Authority of its decision. Notice to the applicant will be deemed given upon personal delivery or three calendar days after deposit in a depositary of the US Postal Service, first class postage paid.

Section 7.07 Review of Local Licensing Authority Decision

7.07.1 If a license is conditionally approved or denied without a public hearing, the applicant may request a hearing by the Local Licensing Authority, by a writing delivered to it within twenty days after notice of the action has been given to the applicant.

7.07.2 If a license is conditionally approved or denied following a public hearing by the Local Licensing Authority, that decision shall be deemed final action and the applicant's sole remedy is review of the decision pursuant to Colorado Rules of Civil Procedure Rule 106(a)(4).

Part VIII. DUTIES OF LICENSEE

Section 8.01 Notice of Changes

8.01.1 A Licensee shall notify the Local Licensing Authority in writing of the name, address, and date of birth of a proposed owner, officer or manager before the new owner, officer or manager begins owning, managing or associating with the operation. The proposed owner, officer, manager and employees must pass a fingerprint-based criminal history record check as required by the State Licensing Authority and obtain the required identification before owning, managing, or associating with the operation. For a complete change of ownership, see Part X.

8.01.2 A Licensee shall report each transfer or change of financial interest in the license to the State and Local Licensing Authorities and receive approval prior to any transfer or change. A report is required for transfers of capital stock of any corporation regardless of numbers or values of shares or size of the corporation.

8.01.3 A Licensee shall report any change of trade name to the Local Licensing Authority before using it.

Section 8.02 Possession of Licensed Premises

At all times, a Licensee shall possess and maintain possession of the Licensed Premises for which the License is issued by ownership, lease, or other arrangement suited for possession of the Premises for the duration of the License.

Section 8.03 Publicly Display Licenses

The Licensee shall conspicuously display the local- and the state-issued licenses at all times on the Licensed Premises.

Section 8.04 On-site Access to Occupational Licenses and Registrations

All persons owning, managing, operating, employed by, working in or having access to restricted areas of a Licensed Premises of, any Licensee who are required by the Medical Marijuana Code, Retail Marijuana Code and the state administrative regulations promulgated pursuant thereto, as applicable, to have occupational licenses and registrations must at all times have a valid license and/or registration from the State Licensing Authority. At all times when on the Licensed Premises, all such persons shall have on their person, and conspicuously display, their occupational licenses and registrations required by the State Licensing Authority. Copies of all such licenses issued by the State Licensing Authority shall be provided to the Authority. Provided, however, if (i) a State application for the required occupation license or registration is pending; and (ii) the County has performed a background check and determined the preferred manager or employee to be temporarily acceptable then compliance with this Section 8.04 is extend for up to ninety (90) days from the start of their employment.

Section 8.05 Compliance with Laws

A Licensee shall at all times comply with and maintain the Licensed Premises in compliance with all of the terms and conditions of the license; the requirements of these Regulations; Colo. Const. Art. XVIII, §§14 and 16, the Medical Marijuana Code, Retail Marijuana Code and the state administrative regulations promulgated pursuant thereto, as applicable; Archuleta County Building, Subdivision and Zoning Regulations; Archuleta County public health regulations; applicable fire code; and all other Archuleta County regulations applicable to the Establishment.

Section 8.06 Notices of Changes in State License Status

A Licensee shall notify the Local Licensing Authority in writing if its state license of the same type for the same type of activity at the same Location as that issued by the Local Licensing Authority has been denied, expired, renewed, revoked or transferred. Notice must be in writing, and given to the Archuleta County Attorney within four business days of the action by the State Licensing Authority. The Licensee shall give a copy of a new or renewed state license to the Local Licensing Authority within four business days of its receipt from the state.

Section 8.07 Notices to Public Safety Agencies

Before commencing operation, a Licensee shall notify the local firefighting agency and Archuleta County Office of Emergency Management of the identity of all toxic, flammable, hazardous, or other materials regulated by a federal, state or local government having authority (or that would have authority over the business if it was not a marijuana business), that will be used, kept, or created at the Licensed Premises, the location of such materials, how such materials will be stored, and shall provide Material Safety Data Sheets where applicable. Before commencing operation, a licensee also shall notify the local firefighting agency and Archuleta County Office of Emergency Management whether CO₂ or CO₂-generating is used on the Licensed Premises, the method and the location. A licensee shall promptly, within no more than one week, notify its local firefighting agency and Archuleta County Office of Emergency Management of any changes in this information. All notices shall be in writing, with a copy sent to the Local Licensing Authority.

PART IX. RENEWALS

Section 9.01 Time to Apply for Renewal License

9.01.1 A License is immediately invalid upon its expiration unless a late renewal application is allowed and filed as provided in this Section 9.01. Unless otherwise expressly provided in these Regulations, if a license is not renewed by the Local Licensing Authority before its expiration, the Licensee may not operate.

9.01.2 A Licensee desiring a renewal of an existing license must apply for the renewal to the Local Licensing Authority not less than sixty (60) days before the date of expiration of the current license. The Local Licensing Authority, in its discretion, based upon reasonable grounds, may waive the sixty (60) day time requirement but the Local Licensing Authority shall not accept an application for renewal of a license after the date of expiration except as provided in Section 9.01.3. Reasonable grounds include that the Licensee has pending a timely-filed application for renewal of its state license. A Licensee who files a renewal application and pays the requisite fees may continue to operate until the Local Licensing Authority takes final action to approve or deny the renewal application.

9.01.3 Notwithstanding the provisions of subsection 9.01.1 and 9.01.2, a Licensee whose license has been expired for not more than ninety days may file a late renewal application if an application for renewal of the corresponding state license has been accepted by the State Licensing Authority, is pending, and the required fees have been paid. In those circumstances, the Licensee may continue to operate until both the State and Local Licensing Authorities have taken final action on the Licensee's late renewal application unless the State Licensing Authority summarily suspends or denies the license, in which case the Licensee must cease operation immediately.

9.01.4 The application for any renewal shall contain, at a minimum, all of the information required by these Regulations for an original license application, and any supplemental information requested by the Authority. The provisions of Part V shall govern the application form and processing as applicable.

Section 9.02 Action on Application for Renewal

Applications to renew a license shall be approved administratively by the Chairman of the Local Licensing Authority without public hearing unless the Licensee has had complaints filed against it, has a history of violations, or there are allegations against the Licensee that would constitute Good Cause, in which case a public hearing on the renewal application may be set. For purposes of this section, complaints include a recommendation by any referral department or agency to deny renewal.

Section 9.03 Procedures; Action on Application

To the extent applicable, the provisions of Part VII shall govern processing and action on the application for renewal.

Section 9.04 Approval Criteria

The approval criteria in Part VI hereof for approval of a new license shall be applicable to an application for a renewal.

Part X. TRANSFERS

Section 10.01 No Transfers or Assignment of Licenses

A license issued under these Regulations is not transferable or assignable, including, without limitation, not transferable or assignable to different Premises, or to a different Owner or Licensee, except in accordance with these Regulations. A license is valid only for the person specifically identified on the license and for the specific Location for which the license is issued. Any attempt to transfer or assign a license in violation of these provisions voids the license.

Section 10.02 License Transfers Allowed

A Licensee may transfer or assign all ownership, rights and interests in a local license issued pursuant to these Regulations, or transfer that license to a different Premises within unincorporated Archuleta County, subject to prior application to, and approval by, the Local Licensing Authority and in compliance with the Medical Marijuana Code, Retail Marijuana Code, and the state regulations promulgated pursuant thereto, as applicable to such transfer or assignment.

Section 10.03 License Transfer Application

The application for any transfer shall contain, at a minimum, all of the information required by these Regulations for an original license application, and any supplemental information requested by the Authority.

Section 10.04 Approval Criteria

The approval criteria in Part VI hereof for approval of a new license shall be applicable to an application for a transfer.

Section 10.05 Procedures; Action on Application

The Local Licensing Authority may hold a public hearing on the application. To the extent applicable, the provisions of Parts V and VII shall govern processing and action on the application for transfer.

Section 10.06 Period of Transferred License

Approval of the transfer of a license has the same effect as approval of a new license and the transferred license shall be valid for a period of one year from the date of approval.

Part XI. ENFORCEMENT

Section 11.01 Inspection

11.01.1 The Local Licensing Authority shall have the rights of entry upon and into and inspection of the Premises and records of a Licensee to the fullest extent authorized by the Medical Marijuana Code, Retail Marijuana Code, and the state administrative regulations promulgated pursuant thereto, as applicable.

11.01.2 The Local Licensing Authority shall at all times during the Licensee's business hours, upon request, be admitted to the Licensed Premises, including any limited access or other secured areas within them, to inspect for compliance with these Regulations. The Local Licensing Authority may request to inspect during non-business hours if the Licensee's normal business hours are inconsistent with typical business hours.

Section 11.02 Hearing; Suspension, Revocation of License

11.02.1 A license issued pursuant to these Regulations may be suspended or revoked by the Local Licensing Authority after a hearing for any of the following reasons:

- (1) Fraud, misrepresentation or a false statement of material fact contained in the license application;
- (2) A violation of any County, state or federal law or regulation with respect to the ownership or operation of the licensed Establishment or with respect to the Licensed Premises – other than a federal law or regulation concerning the possession, sale or distribution of marijuana that conflicts with Amendment 20 or Amendment 64;
- (3) A violation of any of the terms and conditions of the license;
- (4) A violation of any of the provisions of these Regulations;
- (5) The corresponding state license has been suspended or revoked by the State Licensing Authority; or
- (6) The Licensed Premises have been inactive without good cause for at least one year.

11.02.2 A Licensee shall be given notice in writing of the allegations and of a hearing to consider suspending or revoking its license at least ten days before the hearing. The notice shall be sent by regular mail, postage prepaid. Notice will be deemed given upon mailing.

11.02.3 Evidence in support of the charges shall be given first, followed by cross-examination of those testifying thereto. The Licensee, in person or by counsel, shall then be permitted to give evidence in defense and in explanation.

11.02.4 If the evidence presented at the hearing does not support the charges stated in the notice and order served upon the Licensee, but standing alone establishes that the Licensee has engaged in a different violation of Section 11.02.1, these Regulations, the Medical Marijuana Code or the Retail Marijuana Code and the state administrative Rules promulgated pursuant thereto, as applicable, or an order of a state or local licensing authority, the Licensee shall be permitted to give evidence and statement in defense if then prepared to do so. If such evidence is not then available, but can be obtained by the Licensee, the Licensee shall state the substance thereof and upon his request the hearing may be recessed for not more than fourteen days, and shall then continue under the same procedure as through no recess had occurred.

11.02.5 The burden of proof shall be on the person, department or agency alleging that grounds exist for suspension or revocation of the license.

11.02.6 Any decision made by the Local Licensing Authority pursuant to this Section 11.02 shall constitute the final decision of the County, is effective immediately, and may be appealed pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure.

11.02.7 No fee previously paid by a Licensee in connection with the application or license shall be refunded if the license is suspended or revoked.

Section 11.03 These Enforcement Provisions are not Exclusive

In addition to all other remedies available to the County under these Regulations or by other law, including the Medical Marijuana Code, the Retail Marijuana Code, and the state administrative regulations promulgated pursuant thereto, the operation of a Medical Marijuana Establishment or a Retail Marijuana Establishment without a valid license issued pursuant to these Regulations may be enjoined by the County in an action brought in a court of competent jurisdiction.

Section 11.04 Deference to State Licensing Authority

The Authority may defer to the state to enforce compliance with the requirements in the Medical Marijuana Code, Retail Marijuana Code and state administrative regulations promulgated pursuant thereto.

Part XII. FEES

Section 12.01 Fees Set by Resolution

The Board of County Commissioners may revise application, license and operating fees by resolution.

Section 12.02 Medical Marijuana Establishments

The fees and charges shall be pursuant to the Archuleta County Fee Schedule.

Section 12.03 Retail Marijuana Establishments – Application Fees

Application fees for Retail Marijuana Establishment licenses are determined by the Retail Marijuana Code and collected by the State Licensing Authority.

Section 12.04 Retail Marijuana Establishments – License Fees

Ordinarily there is no license fee for Retail Marijuana Establishment licenses. If Colorado Const. Art XVIII, §16(5)(h) or (i) apply to require the Local Licensing Authority to issue a license in lieu of license issuance by the State, the license fee shall be the same amount as would have been charged by the State had it issued the license.

Section 12.05 Retail Marijuana Establishments – Operating Fees

12.05.1 Operating fees shall be set with the objective of offsetting the cost to the County of administering these Regulations.

12.05.2 Operating fees for any license (including any renewal or transfer of a license) shall be pursuant to the Archuleta County Fee Schedule, in addition to the application fee received by the Local Licensing Authority for the license (but not reduced below zero). Operating fees must be paid in full before a license, including a renewal or transfer of a license, is issued. The full operating fee is due in advance for any Retail Marijuana Establishment license that was fully converted from a Medical Marijuana Establishment license. No operating fee will be refunded even if the license is transferred, revoked, surrendered, suspended or otherwise is not valid for a full year, or if the operation ceases or never commences before expiration or revocation of the license.

12.05.3 If it is deemed reasonably necessary to engage the services of an outside consultant to review an application for a retail marijuana license, including a transfer or renewal, the cost of the consultant shall be charged to the applicant as an additional operating fee. Once the estimate is established, the Local Licensing Authority shall notify the applicant in writing of the fee and its amount. Until the fee is paid, the application shall be incomplete and shall not be further processed. The amount of the fee may be increased at any time if it is determined by the Authority that the fee is not sufficient to cover all consulting costs associated with the application. If the Authority so determines, it shall notify the applicant in writing of the amount of the increase. Not later than ten days following the notice, the applicant shall pay the amount of the increase. If the increase is not timely paid, the application shall be deemed withdrawn by the applicant.

Section 12.06 Retail Marijuana Establishments – Late Filing Penalty

If a complete application for a renewal license is not submitted until after the expiration of a license, and the Licensee qualifies for consideration of that late renewal pursuant to Section 9.01.3, the renewal application must be accompanied by a late renewal penalty as stated on the Archuleta County Fee Schedule.

Section 12.07 Payment of Fees

All fees are due and must be paid before a license of any type will be issued or effective. All funds must be remitted in the form of a business check or certified funds.

Section 12.08 Establishment of Community Marijuana Offset Impact Fund

By Separate Resolution of the Board of County Commissioners, a Community Marijuana Offset Impact Fund, which shall be funded by 10% of all Application, License or Operating or other fees received from Marijuana Establishments of all type, shall be established. The Community Marijuana Impact Fund shall be administered by the Board of County Commissioners after receiving recommendations from a panel, to be created by such establishing Resolution and such funds may be used to develop awareness within Archuleta County about Marijuana in general and programs available to help Archuleta County Citizens and children in general make positive lifestyle choices.

Section 13. Repeal

All ordinances and/or resolutions or parts of ordinances and/or resolutions inconsistent with provisions of this ordinance are hereby repealed, except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the effective date of this ordinance.

Section 14. Effective Date.

This ordinance shall become effective upon its passage.

INTRODUCED, READ AND ADOPTED AS AMENDED ON FIRST READING ON this 10th day of June, 2014 and ordered published in full in the Pagosa Springs Sun in Pagosa Springs, Archuleta County, Colorado.

BOARD OF COUNTY COMMISSIONERS
ARCHULETA COUNTY, COLORADO

Clifford Lucero, Chairman

ATTEST:

June Madrid, County Clerk & Recorder

ADOPTED ON SECOND AND FINAL READING ON this 17th day of June, 2014 and ordered published by reference to title only with amendments in the Pagosa Springs Sun in Pagosa Springs, Archuleta County, Colorado.

BOARD OF COUNTY COMMISSIONERS
ARCHULETA COUNTY, COLORADO

Clifford Lucero, Chairman

ATTEST:

June Madrid, County Clerk & Recorder

CERTIFICATE

I hereby certify that the foregoing Ordinance No. 12-2014 was introduced, read, and adopted on first reading at the regular public meeting of the Board of County Commissioners of the County of Archuleta on June 10, 2014, and the same was published in full in the Pagosa Springs Sun, a newspaper of general circulation published in Archuleta County, on May 22, 2014, and thereafter was adopted on second and final reading at a regular public meeting of the Board of County Commissioners of the County of Archuleta on June 17, 2014. Said Ordinance was published by title only with amendments on June 26, 2014. Said Ordinance went into effect on July 17, 2014.

Certified this _____ day of June, 2014

June Madrid, County Clerk & Recorder

APPENDIX A

**WAIVER AND RELEASE OF LIABILITY
AND
AGREEMENT TO INDEMNIFY ARCHULETA COUNTY**

Release of Archuleta County From Liability to License Applicant and Licensee

By applying for a license pursuant to the Colorado Medical Marijuana Code (CRS §12-43.3-101, et seq.) and/or the Colorado Retail Marijuana Code (C.R.S. § 12-43.4-101, et seq.), and (if it is approved and issued) by accepting a license, from the Archuleta County Board of County Commissioners acting as the Archuleta County Local Licensing Authority, the applicant/licensee, and each of them, waives and releases Archuleta County, and its elected officials, employees, agents, insurers and attorneys, and each of them, from any liability for injuries, damages, costs and expenses of any nature whatsoever that result or relate to the investigation, arrest or prosecution of business owners, operators, employees, clients or customers of the applicant/licensee for a violation of state or federal laws, rules or regulations relating to marijuana.

Agreement to Indemnify Archuleta County

By applying for a license pursuant to the Colorado Medical Marijuana Code (CRS §12-43.3-101, et seq.) and/or the Colorado Retail Marijuana Code (C.R.S. § 12-43.4-101, et seq.), and (if it is approved and issued) by accepting a license, from the Archuleta County Board of County Commissioners acting as the Archuleta County Local Licensing Authority, the applicant/licensee, and each of them, jointly and severally if more than one, agrees to indemnify, defend and hold harmless Archuleta County, and its elected officials, employees, agents, insurers and attorneys, and each of them, against all liability, claims and demands, of any nature whatsoever, including, but not limited to, those arising from bodily injury, sickness, disease, death, property loss and property damage, arising out of or in any manner related to the operation of the medical marijuana business that is the subject of the license.

THE UNDERSIGNED AGREES TO THE RELEASE AND AGREEMENT ABOVE.

Signed on _____

Applicant

STATE OF COLORADO)
)
COUNTY OF _____) ss.

The foregoing instrument was acknowledged before me this _____ day of _____, 2014, by _____, in their capacity as _____ of _____.

S E A L

Notary Public

My Commission Expires: _____



AGENDA DOCUMENTATION

OLD BUSINESS:VI.3

PAGOSA SPRINGS TOWN COUNCIL
APRIL 23, 2015

FROM: GREGORY J. SCHULTE, TOWN MANAGER

PROJECT: RETAIL AND MEDICAL MARIJUANA FEES
ACTION: DISCUSSION AND POSSIBLE ACTION

PURPOSE/BACKGROUND

As the Town Council considers certain aspects of the proposed retail / medicinal marijuana ordinance, an important element of the ordinance are the fees to be assessed upon the establishments.

The fee categories are fairly standard and since it was expressed the Town would like to model the County Ordinance, it is suggested that the Town use the fee categories adopted by the County as a starting point. It should be noted that at a later point, the Town will need to amend its fee schedule to reflect the actual costs. It is common practice to set forth the categories, but not actually imbed the fees in the Ordinance as Ordinance are more difficult to change and the Fee Schedule is normally amended by Resolution on an annual basis. The categories are summarized as follows:

- Application Fee
- License Fee
- Operating Fee
- Late Filing Penalties
- License Transfer Fee
- Business Name Change Fee
- Corporate Structure Change Fee
- Modification of Premises Fee

The fees are more fully described in Part XII of the County Ordinance.

ATTACHMENTS:

County Ordinance 12-2014 – An Ordinance for the Regulation and Licensing of Marijuana Business Establishments

FISCAL IMPACT

There will be a direct fiscal impact to be determined later. Staff will need to conduct further research as to the comparable costs with the County and other nearby jurisdictions. Further, staff needs additional time to analyze the cost for staff to process the documentation and to conduct the inspections associated with this body of work.

RECOMMENDATION

In this case, it is staff's recommendation the Town Council take the following action:

"Move to direct staff to incorporate into the proposed Town medical and retail marijuana ordinance, in a proper format, a section describing and defining fees associated with the administration of the retail and medical marijuana ordinance similar to Part XII of County Ordinance 12-2014."



AGENDA DOCUMENTATION

OLD BUSINESS:VI.4

PAGOSA SPRINGS TOWN COUNCIL

APRIL 23, 2015

FROM: APRIL HESSMAN, CMC, TOWN CLERK

PROJECT: MARIJUANA BACKGROUND CHECKS

ACTION: DISCUSSION AND POSSIBLE ACTION

PURPOSE/BACKGROUND

As the Town Council considers certain aspects of the proposed retail/medicinal marijuana ordinance, one consideration for the ordinance is the background checks on owners, managers, and employees.

Archuleta County has adopted regulations that require the Authority to determine the good moral character of the applicant.

The State of Colorado requires all owners, stockholders, and employees to apply for a MED Medical or Retail Marijuana Business License, requirements are:

- Must be resident of state for two years prior to application;
- Must be 21 years of age;
- May not have any delinquent public or child support obligations (medical);
- May not have any Controlled Substance felony convictions (medical) or may not have any Controlled Substance felony conviction in the ten years immediately preceding his or her application date or five years from May 28m 2013, whichever is longer* (retail with Authority permission) ;
- May not have any other felony convictions that have not been fully discharged for five years prior to applying for your business license;
- May not have a criminal history that indicates that he or she is not of good moral character;
- May not employ, be assisted by or financed in whole in in part by any other person whose criminal history indicates he or she is not of good character and reputation;
- May not be a licensed physician making patient recommendations (medical), a sheriff, deputy sheriff, police office, prosecuting officer or be an employee of a local or State Licensing Authority, and
- May not employ any person at the Medical or Retail Marijuana business that has not passed a criminal history record check (obtained an MED Occupational License).

ANALYSIS

The County's ordinance Section 7.04.2 addresses background checks:

7.04.2 Before entering any decision approving, conditionally approving or denying the application, the Authority shall make a finding as to the good moral character of the applicant in accordance with the standards and procedures set forth in the Medical Marijuana Code, Retail Marijuana Code, and the state administrative regulations promulgated pursuant thereto, as applicable. In so doing, the Authority may incorporate any findings as to good moral character previously made by the State Licensing Authority. The Authority shall not be required to perform a criminal background check: (i) if the State Licensing Authority has performed a criminal background check on the applicant to the satisfaction of the Authority; or (ii) if the Authority approves a license conditioned on the completion and successful review of the criminal background check by the State Licensing Authority.

As part of the State Marijuana License Application, an Investigation Authorization and Release of Information form is completed by the applicant authorizing the Marijuana Enforcement Division to conduct a complete investigation into

personal background, financial records, tax filing records, and criminal history. This includes FBI, CBI, CCIC, child support and student loan checks. Key Associates holding an interest in the business, officers, directors, as well as support staff and employees are required to complete applications and obtain badges from the State.

ATTACHMENTS:

None

FISCAL IMPACT

No known fiscal impacts

RECOMMENDATION

It is staff's recommendation the Town Council consider the following action:

Move to direct staff to incorporate into the proposed medical and retail marijuana Ordinance a provision requiring the Authority to make a finding as to the good moral character of the applicant similar to the County's ordinance provisions.