



**CITY OF LA JUNTA
OFFICE OF THE
CITY CLERK**

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**NOTICE
of
WORK SESSION**

FROM: Joe Ayala, City Council Mayor
Frank McKenzie, Utilities Board Chairman

TO: Council Members
Utilities Commissioners
City Manager
Assistant City Manager
City Attorney

DATE: May 13, 2022

SUBJECT: Work Session

A Work Session will be held Monday, May 16, 2022 at 5:00 p.m. in the City Council Chambers, 601 Colorado Avenue.

WORK SESSION AGENDA:

- ARK VALLEY CONDUIT



AGENDA

REGULAR MEETING LA JUNTA CITY COUNCIL

La Junta, Colorado

May 16, 2022

6:00 PM

Council Chambers

Municipal Building

601 Colorado Avenue

CALL TO ORDER (Mayor Ayala)

INVOCATION (Council Member McIntyre)

PLEDGE OF ALLEGIANCE (Mayor Ayala)

ROLL CALL (City Clerk)

Council Members

Supervisors

Others

Ramirez

Velasquez

McIntyre

Ayala

Ochoa

Vela

Pantoya

MINUTES OF PREVIOUS MEETINGS (Mayor) (Action)

Regular Meeting May 2, 2022

CITIZEN PARTICIPATION FOR NON AGENDA ITEMS ONLY *(5 minute time limit per person)*

ARK VALLEY CONDUIT (Information)

UNFINISHED BUSINESS

A. Second Reading/AN ORDINANCE CONCERNING AN ANNEXATION FOR PROPERTY (City Attorney) (Action)

B. Second Reading/AN ORDINANCE AMENDING ORDINANCE NUMBER 1242 (THE ZONING ORDINANCE) OF THE CITY OF LA JUNTA AS CONCERNS AN APPLICATION FOR ANNEXATION BY THE PHILLIP W. BUFORD AND MARY JEAN BERG BUFORD LIVING TRUST DATED 04/15/2014 (City Attorney) (Action)

C. Second Reading/AN ORDINANCE OF THE CITY OF LA JUNTA, COLORADO TO UTILIZE THE COLORADO DEPARTMENT OF REVENUE SALES AND USE TAX COLLECTION PROCEDURES (City Attorney) (Action)

NEW BUSINESS

A. Liquor Licenses (City Attorney) (Action)

1. Application for a Special Event Permit by Southeast Colorado Creative Partnership, Nancy Bennett, Event Manager. The event is the Annual Brew Fest Fundraiser to be held June 11, 2022 from 6:00 p.m. to 10:00 p.m. at the Santa Fe Plaza

2. Application for Renewal of a Hotel & Restaurant Liquor License by Fargerson LLC, d/b/a Boss Hogs Saloon & Restaurant, 808 E. 3rd Street

B. Urban Renewal Appointment (City Attorney) (Action)

- C. Recycling Bins (Mayor) (Action)
- D. Committee/Board Reports
- E. City Manager's Comments
- F. Governing Body Comments
- G. ADJOURN



STATE OF COLORADO)
COUNTY OF OTERO) SS
CITY OF LA JUNTA)

CALL TO ORDER: A regular meeting of the City Council of the City of La Junta, Colorado, was called to order by Mayor Pro-Tem Velasquez on Monday, May 2, 2022, at 6:00 p.m. in the Council Chambers of the Municipal Building.

INVOCATION: Council Member Vela gave the invocation.

PLEDGE OF ALLEGIANCE: Mayor Pro-Tem Velasquez led everyone in the Pledge of Allegiance.

ROLL CALL: The following Council Members were present:

- Damon Ramirez, Ward 1
- Paul Velasquez, Ward 1
- Elaine McIntyre, Ward 2
- Chandra Ochoa, Ward 2
- Edward Vela, Ward 3
- Lisa Pantoya, Ward 3

Absent: Joe Ayala, Mayor

- Also present:
- Rick Klein, City Manager
 - Phil Malouff Jr., City Attorney
 - Debra Fraker, Admin. Asst.
 - Paula Mahoney, Admin. Asst.
 - Aliza Libby, Director of Finance
 - Gary Cranson, UB Commissioner
 - Betty Velasquez, La Junta
 - Diana Remick, La Junta
 - William Remick, La Junta
 - Kyle Christianson, La Junta
 - Bill Macdonald, La Junta
 - Bette McFarren, RF Gazette

MINUTES OF PREVIOUS MEETING: Mayor Pro-Tem Velasquez asked if there were any corrections or additions to the minutes of the Regular City Council Meeting of April 18, 2022. After hearing none, the Mayor Pro-Tem asked for a motion to approve the minutes as published.

MOTION TO ACCEPT THE APRIL 18, 2022 MINUTES AS PUBLISHED: Vela

SECOND: Ramirez

DISCUSSION: There was no discussion

VOTE: The motion carried 6-0 (Ayala absent)

CITIZEN PARTICIPATION FOR NON-AGENDA ITEMS (5 minute time limit per person):

1. Bill Macdonald: (The following comment has been written as close to verbatim as possible.) "I typically go out to Death Valley in the winter. I missed a year but that's where Pahrump Nevada is. They have a lot of people liking to carry their pistols to the supermarket. When I was there at the Starbucks this year, there was actually a paramilitary guy. Had his pistol and two clips on him in the Starbucks. It said Skokie Range on his khaki with stripes and everything. So just last week I was here in the Wal-Mart there were two people wearing pistols in the Wal-Mart. I asked a one of the people who worked there, Veteran of the Air Force. He's like, 'I don't like it either'. These people are being aggressive. What's going on here in America? The other side of it is

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we have things like restraining orders. The 2nd Amendment people are justifiably have concerns about things. I currently have an injunction against my property that's right over there. The other side of it is anybody here on the council could have one of their neighbors go down to the new magistrate, Rodney Fouracre, have a secret meeting and then you're summoned to court before Judge Manley. In my case, I spent roughly 12 hours producing key documents for Judge Manley. He couldn't find them and had no interest whatsoever. By that time I realized, he's not entirely a judge. He's actually the attorney for the accuser. Consequently, that's pretty much why I'm here. The kind of thing you want to think about, do you want to worry about having one of your neighbors go to Fouracre and have you hauled before Manley. They issue a permanent injunction about the place where you live. There's actually quite a lot of background information you have to look at. What I'm getting is that there's dark courts at work here in La Junta that affects a lot of people that get stuck on probation. Working people. They have spent time and money. Manley keeps bringing them back to court. Fouracre's been here. There's a huge spike since Fouracre went on it using the secret, it's not secret. What it is to emergency powers. I'm working through the process. Personally, I'm extremely offended by Fouracre and Manley judicial behavior. There are ways to follow it through and that's what I'm doing. I'm letting you know that there's actually. When somebody gets one of these restraining orders and they've been unjustly accused, they resent it for the rest of their life. I've talked to people about it. It's not a good situation. That's why I came to council and thank you for your time."

City Attorney Malouff: Just so the record is straight, Judge Manley was operating as a State Judge and it was a State restraining order in a State Court. Nothing to do with us.

2. Diana Remick, 516 Grant Avenue: "There was a freak accident at 5th & Rice. It was very tragic for a lot of people. We had a birthday party going on right across the street from the accident. Several Primary School age kids witnessed the accident. There were families bar-b-qing and a baseball game going on. It was a unique situation but many silent witnesses to the tragedy. This isn't the first time this house has had a car accident in their yard. This is the second time. This is a single mother of small children who no longer felt safe to live in this house. She has been trying to get out of her household because that day her kids could have been playing in the yard. This is a concern. There are numerous times that I've been driving home and I've avoided collisions happening there. I've witnessed collisions happening there. I've seen people missing the stop sign. When I contacted the City, Rick informed Paula to let me know that CDOT was aware of this problem. I think that's great news but I think it's bigger than just a 4-way stop. There's more problems that we need to look at. There's an urgency to not put this on hold. I don't want this to be a CDOT problem that just takes a long time to get resolved. This is a busy time of the year. There's lots of kids and families riding their bikes and going to the Primary School to play. There's kids walking to Sonic with their friends. There's a baseball game almost every single night and we haven't even started Parks and Recreation. There's also the Wipe-Out that's going to be opening. I think a 4-way stop is one way to help with the situation but I also think that parking needs to be limited on the street. If you drive past that ballpark when there's a game, it's a "punch it" situation. You creep out and creep out and then you "punch it" and hope that you don't get in an accident. At 16, I was in a car accident because of that at a baseball game. Again, it hasn't changed 30 years later. It's still the same problem and nothings been done. I'm not here to complain. I want to be part of the solution. I want to advocate for people that can't come. The mother of the house felt like she couldn't come. She's been emotionally traumatized. She's had to move into a smaller place for the safety of her children. She was not home. I personally contacted her because I didn't want her to come home to this tragedy. She was on her way to Pueblo to celebrate a birthday party. She would have been home after 10:00 that night and walked up to a beam that had fallen down on her house. Yes I understand this was a citizen that has not made good choices in our community. It was a freak accident. But again, this wasn't the first time that she's had a car in her yard with her children playing in that area. Ideally, it's hard to say no parking because a lot of people who attend baseball games. But for the safety of our children, I think that the parking needs to be moved up. So we don't have blind spots on both sides of 5th & Grant. I think that we really need to be about that and doing that. Addressing that as soon as possible. I attended a baseball game and there were people parked clear up to the stop sign and no monitoring of it. No police, no enforcement. And again, our children are our priority We need to put them first. This is going to

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be an area where we want kids, family to gather for Sonic, Parks and Recreation and baseball and for the swimming pool. I really think that there is a sense of urgency that needs to be taken care of now because I don't want to be a witness to another tragedy. I will not be able to handle knowing that a child or somebody got hurt because we didn't do what we needed to do as a City to keep our children safe and our families safe."

3. Edward Vela: I'd like to thank everyone for their thoughts and prayers during my short term absence from council because I had to have some surgery. I'm still in recovery but I'm doing pretty good. Prayer works.

NEW BUSINESS

- A. A Resolution Concerning a Petition for Annexation.** Resolution No. R-11-2022 was presented for council's consideration as follows:

WHEREAS, the Planning Commission of the City of La Junta has held a public hearing on April 21, 2022 concerning the Petition for Annexation filed by THE PHILLIP W. BUFORD AND MARY JEAN BERG BUFORD LIVING TRUST DATED 04/15/2014, concerning certain lands; and

WHEREAS, after hearing the City Council of La Junta finds as follows:

1. The applicable sections of Section 31-12-104 entitled "Eligibility for Annexation", and the applicable sections of Section 31-12-105 entitled "Limitations" have been met;
2. That there is no requirement of an election pursuant to the terms of 31-12-107(2); and
3. The terms of 31-12-107 (l)(g) are applicable and controlling.
4. That all other requirements of the Petition for Annexation having been met;

WHEREAS, the recommendation of the Planning Commission is that the sites described above and in the Petition for Annexation should be annexed into the City, zoned "C-S".

MOTION TO ADOPT RESOLUTION NO. R-11-2022: Vela

SECOND: Ochoa

DISCUSSION: The annexation of this property will increase the tax base.

VOTE: The motion carried 6-0 (Ayala absent)

- B. First Reading/AN ORDINANCE CONCERNING AN ANNEXATION FOR PROPERTY.** The ordinance was introduced by title only, there being copies available to those in attendance.

MOTION TO PASS THE ORDINANCE ON FIRST READING: Vela

SECOND: Pantoya

DISCUSSION: There was no discussion

VOTE: The motion carried 6-0 (Ayala absent)

- C. First Reading/AN ORDINANCE AMENDING ORDINANCE NUMBER 1242 (THE ZONING ORDINANCE) OF THE CITY OF LA JUNTA AS CONCERNS AN APPLICATION FOR ANNEXATION BY THE PHILLIP W. BUFORD AND MARY JEAN BERG BUFORD LIVING TRUST DATED 04/15/2014.** The ordinance was introduced by title only, there being copies available to those in attendance.

MOTION TO PASS THE ORDINANCE ON FIRST READING: Ochoa

SECOND: McIntyre

DISCUSSION: There was no discussion

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VOTE: The motion carried 6-0 (Ayala absent)

- D. First Reading/AN ORDINANCE OF THE CITY OF LA JUNTA, COLORADO TO UTILIZE THE COLORADO DEPARTMENT OF REVENUE SALES AND USE TAX COLLECTION PROCEDURES.** The ordinance was introduced by title only, there being copies available to those in attendance.

MOTION TO PASS THE ORDINANCE ON FIRST READING: Pantoya

SECOND: Ochoa

DISCUSSION: The State of Colorado will begin collecting La Junta sales tax beginning July 1, 2022 and will remit payment to the City on the first of every month.

VOTE: The motion carried 6-0 (Ayala absent)

E. Committee/Board Reports

1. Live Well Park (Council Member Vela):
 - Still in limbo but the Children's Theater have been having rehearsals.
2. Action 22 (Council Member Vela):
 - Attended a meeting about housing. Very impressed with the meeting. Learned several things including the need for connectivity and options that are available for people to participate in housing.

F. City Manager's Comments

- The bikes from our Bike Share grant have been activated.
- T-Ball, Softball/Baseball registrations are open until May 6th.
- We have started setting blocks on the low part of the Brick & Tile Park. We need to finish the concrete pours this month as well as patch when the asphalt is available.
- We have been placing the traffic counters around town.
- All of our 20 yard boxes are rented.
- Working on Southeast Housing Project as well as presenting on our housing and demolition programs for Action 22.
- City Park bathrooms have been vandalized twice since we have opened them.
- We are working on the 50/50 Tree Removal Program.
- We will have a new engineer starting June 1st, Martin Montoya
- We are at Fire Wind Stage 1 fire restrictions.
- We had a water break at 2nd and San Juan Avenue.
- There are cameras at the park and cemetery.
- Black is Beautiful is working on 3rd Street on the west side of town.

G. Governing Body Comments

1. Council Member Velasquez:
 - Concerning the new bike racks, a citizen said thank you for putting them up on the east side. It gives the City a new vibe look. It shows optimism in the direction we could be heading.
 - Starting yesterday and for the remainder of this week is public employee recognition week. For everybody out there that works for the City of La Junta, Thank You.
2. Council Member Vela:
 - At the Action 22 housing meeting, we also learned that you should get your home now because future homes will be modulars.

There being no further business, the meeting adjourned at 6:46 p.m.

ATTEST:

CITY OF LA JUNTA

Melanie R. Scofield, City Clerk

Joseph Ayala, Mayor

ORDINANCE NO. 1633

**AN ORDINANCE CONCERNING
AN ANNEXATION FOR PROPERTY**

WHEREAS, there was filed with the City Council of the City of La Junta, Colorado on the 8th day of March, 2022, a Petition for Annexation and Subdivision to the City of La Junta, the real estate in this Ordinance described; and

WHEREAS, said territory is eligible for annexation under the provisions of Colorado Revised Statutes 1973, Chapter 31, Article 12, and said Petition and documents and maps thereto attached comply with the requirements of Colorado Revised Statutes 1973, 31-12-104 and 31-12-105; and

WHEREAS, the Petition is in substantial compliance of Colorado Revised Statutes 1973, 31-12-107;

WHEREAS, the owner of 100 percent of the area to be annexed has petitioned for annexation;

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

Section 1. All proceedings for the annexation of the City of La Junta, Colorado, of the lands hereinafter described are approved.

Section 2. There is hereby annexed to the City of La Junta, Colorado, real estate described as follows, to-wit:

Lot 32, Stark's Subdivision of the W/2NW/4 of Section 4, Township 24 South, Range 55 West of the 6th P.M. in Otero County, Colorado.

Section 3. The City Clerk of the City of La Junta is hereby directed, upon final passage and approval of this ordinance to keep on file in her office, a map or plat of the annexed territory, and to file two copies of said map or plat and two certified copies of said ordinance with the County Clerk and Recorder of Otero County, Colorado; one copy of the Ordinance and the map to be retained

by the Clerk and Recorder and the other copy of the Ordinance and map to be filed with the Division of Local Government of the Department of Local Affairs.

Passed on first reading this 2nd day of May, 2022.

ADOPTED AND APPROVED on second reading and final reading this 16th day of May, 2022.

CITY OF LA JUNTA

Joseph Ayala, Mayor

ATTEST:

Melanie R. Scofield, City Clerk

ORDINANCE NO. 1634

**AN ORDINANCE AMENDING ORDINANCE NUMBER 1242 (THE ZONING
ORDINANCE) OF THE CITY OF LA JUNTA AS CONCERNS AN APPLICATION
FOR ANNEXATION BY THE PHILLIP W. BUFORD AND MARY JEAN BERG
BUFORD LIVING TRUST DATED 04/15/2014**

WHEREAS, the Planning Commission of the City of La Junta has recommended that certain changes be made to Ordinance Number 1242;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LA JUNTA, COLORADO AS FOLLOWS:

Section 1. That the zoning map which is a part of Ordinance Number 1242 be amended as follows:

Section 2. That said lands be zoned "C-S".

PASSED on first reading this 2nd day of May, 2022.

ADOPTED AND APPROVED this 16th day of May, 2022.

CITY OF LA JUNTA

ATTEST:

Joseph Ayala, Mayor

Melanie R. Scofield, City Clerk

ORDINANCE NO. 1635

**AN ORDINANCE OF THE CITY OF LA JUNTA,
COLORADO TO UTILIZE THE COLORADO DEPARTMENT
OF REVENUE SALES AND USE TAX COLLECTION
PROCEDURES**

WHEREAS, the City of La Junta, Colorado, (the "City"), is a home rule municipality, organized and existing under Article XX, Section 6 of the Colorado Constitution; and

WHEREAS, pursuant to Article XX, Section 6 of the Colorado Constitution, the right to enact, administer and enforce sales taxes is clearly within the constitutional grant of power to the City and is necessary to raise revenue with which to conduct the affairs and render the services performed by the City; and

WHEREAS, pursuant to such authority, the City has adopted and enacted a Sales and Use Tax Code (the "Code"), under which City sales tax is levied on all sales and purchases of tangible personal property or taxable services at retail unless prohibited, as applicable to the provision of this Ordinance, under the Constitution or laws of the United States; and

WHEREAS, the United States Supreme Court in *South Dakota v. Wayfair*, 138 S.Ct. 2080 (2018), overturned prior precedent and held that a State is not prohibited by the Commerce Clause from requiring a retailer to collect sales tax based solely on the fact that such retailer does not have a physical presence in the State ("Remote Sales"); and

WHEREAS, based upon such decision, the retailer's obligation to collect Remote Sales is no longer based on the retailer's physical presence in the jurisdiction by the Constitution or law of the United States, and the City's Sales and Use Tax Code needs to be amended to clearly reflect such obligation consistent with said decision; and

WHEREAS, the delivery of tangible personal property, products, or services into the City relies on and burdens local transportation systems, emergency and police services, waste

disposal, utilities and other infrastructure and services; and

WHEREAS, the failure to tax remote sales creates incentives for businesses to avoid a physical presence in the State and its respective communities, resulting in fewer jobs and increasing the share of taxes to those consumers who buy from competitors with a physical presence in the State and its municipalities; and

WHEREAS, it is appropriate to adopt uniform definitions to encompass marketplace facilitators, marketplace sellers, and multichannel sellers that do not have a physical presence in the City, but that still have a taxable connection with the City;

WHEREAS, absent such amendment, the continued failure of retailers to voluntarily apply and remit sales tax owed on remote sales exposes the municipality to unremitted taxes and permits an inequitable exception that prevents market participants from competing on an even playing field; and

WHEREAS, an additional goal of adopting this ordinance is to join in on the simplification efforts for collection of sales tax; and

WHEREAS, the City adopts this ordinance with the intent to address tax administration, and, in connection with, establish economic nexus for retailers or vendors without physical presence in the State and require the retailer or vendor to collect and remit sales tax for all sales made within the marketplace.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LA JUNTA, COLORADO, that:

SECTION 1. Section 3.04.015 is amended as follows:

SECTION 3.04.015 Definitions in general is hereby amended and changed to read as follows:

- (a) The former definition of "Engaged in Business in the City" is repealed.

- (b) The following definition of "Engaged in Business in the City" is enacted as follows:

Engaged in Business in the City means performing or providing services or selling, leasing, renting, delivering or installing tangible personal property, products, or services for storage, use or consumption, within the City. Engaged in Business in the City includes, but is not limited to, any one of the following activities by a person:

- (1) Directly, indirectly, or by a subsidiary maintains a building, store, office, salesroom, warehouse, or other place of business within the taxing jurisdiction;
- (2) Sends one or more employees, agents or commissioned sales persons into the taxing jurisdiction to solicit business or to install, assemble, repair, service, or assist in the use of its products, or for demonstration or other reasons;
- (3) Maintains one or more employees, agents or commissioned sales persons on duty at a location within the taxing jurisdiction;
- (4) Owns, leases, rents or otherwise exercises control over real or personal property within the taxing jurisdiction; [or]
- (5) Retailer or vendor in the state of Colorado that makes more than one delivery into the taxing jurisdiction within a twelve-month period; or
- (6) Makes retail sales sufficient to meet the definitional requirements of economic nexus as set forth in the "Economic Nexus" Subsection of this Section.

(c) The former definition of "Retailer or Vendor" is repealed.

(d) The following definition of "Retailer or Vendor" is enacted as follows:

Retailer or Vendor means any person selling, leasing, renting, or granting a license to use tangible personal property or services at retail. The terms "retailer" shall include, but is not limited to, any:

- (1) Auctioneer;
- (2) Salesperson, representative, peddler or canvasser, who makes sales as a direct or indirect agent of or obtains such property or services sold from a dealer, distributor, supervisor or employer;
- (3) Charitable organization or governmental entity which makes sales of tangible personal property to the public, notwithstanding the fact that the merchandise sold may have been acquired by gift or donation or that the proceeds are to be used for charitable or governmental purposes;
- (4) Retailer-contractor, when acting in the capacity of a seller of building supplies, construction materials, and other tangible personal property; or
- (5) Marketplace facilitator, marketplace seller, or multichannel seller.

(d) The following definition of "Economic Nexus" is enacted as follows:

Economic Nexus means the connection between the City and a person not having a physical nexus in the State of Colorado, which connection is established when the person or marketplace facilitator makes retail sales into the City, and:

- (1) In the previous calendar year, the person, which includes a marketplace facilitator, has made retail sales into the state exceeding the amount specified in C.R.S. § 39-26-102(3)(c), as amended; or
- (2) In the current calendar year, 90 days has passed following the month in which the person, which includes a marketplace facilitator, has made retail sales into the state exceeding the amount specified in C.R.S. § 39-26-102(3)(c), as amended.

This definition does not apply to any person who is doing business in this state but otherwise applies to any other person.

- (e) The following definition of "Marketplace" is enacted as follows:

Marketplace means a physical or electronic forum, including, but not limited to, a store, a booth, an internet website, a catalog, or a dedicated sales software application, where tangible personal property, taxable products, or taxable services are offered for sale.

- (f) The following definition of "Marketplace Facilitator" is enacted as follows:

Marketplace Facilitator means a person who:

- (1) Contracts with a marketplace seller or multichannel seller to facilitate for consideration, regardless of whether or not the consideration is deducted as fees from the transaction, the sale of the marketplace seller's tangible personal property, products, or services through the person's marketplace;
- (2) Engages directly or indirectly, through one or more affiliated persons, in transmitting or otherwise communicating the offer or acceptance between a purchaser and the marketplace seller or multichannel seller; and
- (3) Either directly or indirectly, through agreements or arrangements with third parties, collects payment from the purchaser on behalf of the seller.

"Marketplace Facilitator" does not include a person that exclusively provides internet advertising services or lists products for sale, and that does not otherwise meet this definition.

- (g) The following definition of "Marketplace Seller" is enacted as follows:

Marketplace Seller means a person, regardless of whether or not the person is engaged in business in the city, which has an agreement with a marketplace facilitator and offers for sale tangible personal property, products, or services through a marketplace owned, operated, or

controlled by a marketplace facilitator.

(h) The following definition of "Multichannel Seller" is enacted as follows:

Multichannel Seller means a retailer that offers for sale tangible personal property, commodities, or services through a marketplace owned, operated, or controlled by a marketplace facilitator, and through other means.

SECTION 2. SECTION 3.04.016 "Vendor liable for tax" is hereby enacted as follows:

SECTION 3.04.016: Vendor Liable for Tax: Except for qualifying limitations with respect to marketplace sales as set forth above, every retailer (also herein called vendor) shall be liable and responsible for the payment of an amount equivalent to 3% the rate of tax imposed on all sales made by him or her of commodities or services as specified above, and shall, before the 20th day of each month make a return to the state for the preceding calendar month and remit an amount equivalent to said 3%, the rate of tax imposed above of such sales to the state, less 3% an amount equivalent to the rate of tax imposed above of such tax to cover the vendor's expense in the collection and remittance of said tax. Such returns of the taxpayer, or his or her duly authorized agent, shall contain such information and be made in such manner and upon such forms as the State may prescribe. The burden of proving that any retailer is exempt from collecting the tax on any goods sold and paying the same to the city clerk, or from making such returns, shall be on the retailer or vendor under such reasonable requirements of proof as the state may prescribe.

SECTION 3. SECTION 3.04.017 is hereby enacted as follows:

SECTION 3.04.017 - Marketplace Sales.

(1) Responsibility.

- a. A marketplace facilitator engaged in business in the city is required to collect and remit sales tax on all taxable sales made by the marketplace facilitator, or facilitated by it for marketplace sellers or multichannel sellers to customers in

the city, whether or not the marketplace seller for whom sales are facilitated would have been required to collect sales tax had the sale not been facilitated by the marketplace facilitator.

- b. A marketplace facilitator shall assume all the duties, responsibilities, and liabilities of a vendor under the "Retailer or Vendor". Marketplace facilitators shall be liable for the taxes collected from marketplace sellers or multichannel sellers. The City may recover any unpaid taxes, penalties, and interest from the marketplace facilitator that is responsible for collecting on behalf of marketplace sellers or multichannel sellers.
- c. The liabilities, obligations, and rights set forth under this article are in addition to any duties and responsibilities of the marketplace facilitator has under this article if it also offers for sale tangible personal property, products, or services through other means.
- d. A marketplace seller, with respect to sales of tangible personal property, products, or services made in or through a marketplace facilitator's marketplace, does not have the liabilities, obligations, or rights of a retailer under this article if the marketplace seller can show that such sale was facilitated by a marketplace facilitator:
 1. With whom the marketplace seller has a contract that explicitly provides that the marketplace facilitator will collect and remit sales tax on all sales subject to tax under this article; or
 2. From whom the marketplace seller requested and received in good faith a certification that the marketplace facilitator is registered to collect sales tax and will collect sales tax on all sales subject to tax under this article made in or through the marketplace facilitator's marketplace.
- e. A marketplace seller makes that is not

facilitated by a licensed marketplace facilitator in a marketplace, the marketplace seller is subject to all of the same licensing, collection, remittance, filing and recordkeeping requirements as any other retailer.

- (2) Auditing. With respect to any sale, the city shall solely audit the marketplace facilitator for sales made by marketplace sellers or multichannel sellers but facilitated by the marketplace. The city will not audit or otherwise assess tax against marketplace sellers or multichannel sellers for sales facilitated by a marketplace facilitator.

SECTION 4. SECTION 3.04.018 is hereby enacted as follows:

SECTION 3.04.018: No obligation to collect the sales and use tax required by this article may be applied retroactively. Responsibilities, duties and liabilities described in of a marketplace facilitator, marketplace seller, or multichannel seller begin upon the earlier of when they became licensed to collect the city's sales tax or when they became legally obligated to collect the city's sales tax under Section 3.

SECTION 5. SECTION 3.04.121 is hereby enacted as follows:

SECTION 3.04.121: Without the intent of repealing any provision of the Municipal Code Sections related to the collection of sales tax as provided under Title 3, all enforcement and collection provisions of Title 3 of this code existing prior to the enactment of this Ordinance shall be stayed for so long as Section 3.04.122 is recognized as the choice of collection alternatives of the City.

SECTION 6. SECTION 3.04.122 is hereby enacted as follows:

Section 3.04.122: The collection, administration and enforcement of the sales tax shall be performed by the Executive Director of the Colorado Department of Revenue (the "Executive Director") in the same manner as the collection, administration and enforcement of the Colorado state sales tax. The provisions of article 26 of title 39,

C.R.S. and all rules and regulations promulgated thereunder by the Executive Director shall govern the collection, administration, and enforcement of the sales tax.

SECTION 7. The effective date of this ordinance is June 1, 2022.

READ IN FULL AND PASSED, on first reading the 2nd day of May, 2022.

READ IN FULL AND ADOPTED on second reading this 16th day of May, 2022

CITY OF LA JUNTA

Joseph Ayala, Mayor

ATTEST:

Melanie R. Scofield, City Clerk

City Manager Comments

- We were awarded \$500,000 Brownfield grant from EPA to identify, test, and get a cleanup plan with costs to be able to go apply for an 80/20% matching grant. We are working with IF on the old South School.
- Carl Scofield was the 2021 Water operator of the year.
- We have started setting blocks, processing the dirt, and cutting in the drainage of the Brick & Tile Park. We need to finish the concrete pours this month as well as patch when asphalt is available.
- Final trail design has been submitted to CDOT for approval.
- We have repaired the 3rd Street Bridge required from inspection.
- Closed on three properties for Southeast Housing Project in La Junta. Groundbreaking May 25 Las Animas Memorial field 1:30
- City Park wall at 14th and Santa Fe was hit and broke the opening out.
- Working on the 50/50 tree removal program
- Fire wind Stage 1 fire restrictions
- Stage 1 water restrictions