

**RIO DELL CITY COUNCIL
REGULAR MEETING
JANUARY 16, 2018
MINUTES**

The regular meeting of the Rio Dell City Council was called to order at 6:00 p.m. by Mayor Wilson.

ROLL CALL: Present: (Closed Session) Mayor Wilson, Mayor Pro Tem Johnson, Councilmembers Garnes and Marks, City Manager Knopp, Community Development Director Caldwell and City Attorney Gans

Absent: Councilmember Strahan (excused)

Present: (Regular Meeting) Mayor Wilson, Mayor Pro Tem Johnson, Councilmember Garnes and Marks

Others Present: City Manager Knopp, Chief of Police Conner, Finance Director Woodcox, Community Development Director Caldwell, City Attorney Gans and City Clerk Dunham

Absent: Water/Roadways Superintendent Jensen and Wastewater Superintendent Trainee Purvis

ANNOUNCEMENT OF ITEMS TO BE DISCUSSED IN CLOSED SESSION AS FOLLOWS

Conference with Legal Counsel – Anticipated Litigation – 1 Potential Case: Facts and Circumstances Unknown

The Council recessed into closed session at 6:00 p.m. to discuss the above matter.

The Council reconvened into open session at 6:30 p.m.

Mayor Wilson announced there was no reportable action taken in closed session.

PUBLIC PRESENTATIONS

Nick Angeloff provided an update on recent activities in the Chamber of Commerce and thanked everyone for efforts with regard to Christmas lights. He noted that they will be purchasing additional lights soon to take advantage of the after Christmas sales. The goal is to extend garland throughout town and eventually light up the Rio Dell Scotia Bridge. He thanked the many businesses that contributed funds toward the holiday decorations.

CONSENT CALENDAR

Motion was made by Johnson/Garnes to approve the consent calendar as presented. Motion carried 4-0.

Mayor Wilson announced a change in the order of the agenda and moved the discussion related to Cannabis Regulations as the next matter of business.

Discussion Related to Possible Revision of the City's Cannabis Regulations to Include Adult "A" Activities

City Manager Knopp distributed a handout on discussion points related to Medical/Recreational Cannabis (Attachment 1 to these minutes). He continued with review of the discussion points including an overview of the following topics:

- Current Cannabis Proposals in Rio Dell
- Cannabis Background and Facts
- What Other Jurisdictions are Doing
- Medicinal Market Only
- Advantages of Allowing Adult (A) Activities

He noted that the Council received a series of correspondence from stakeholders regarding proposed changes to the City's Cannabis Regulations they feel are necessary and noted that the City's Medical Cannabis Ordinance was adopted in October 2016 prior to the approval of Proposition 64 Adult Use of Marijuana Act (AUMA).

He said so far the Planning Commission has approved 50,000 square feet of development across the river with \$8 million in investments with estimated 53 new jobs and another 100,000 square feet is currently under review. He said the potential annual revenue to be generated for the City is \$980,000 which can be used for infrastructure, public safety and other community services.

He continued with review of the various Cannabis ballot measures and noted that Measure T, the Cannabis Advisory Measure passed by Rio Dell voters with 53.41% yes votes and Measure X, the Cannabis Tax Measure with an overwhelming 80.96% yes votes. He pointed out that the ballot measures did not specifically refer to "Medicinal" Cannabis only.

City Manager Knopp reported that Humboldt County, Eureka and Arcata are currently in the process of eliminating references to medical commercial cannabis and allowing both recreational and medical cannabis activities. He said a key fact to remember is that there is little appreciable difference between an ordinance that regulates medical marijuana, and an ordinance that regulates recreational marijuana. Both are agricultural products and are chemically identical for purposes of local regulation. The only difference is with regard to labeling; one will include an "M" for Medical Cannabis and the other with and "A" for Adult Cannabis.

Another important point is that prohibiting Adult "A" activities will not eliminate recreational cannabis in the City as residents may cultivate up to six (6) plants and/or purchase recreational cannabis in the County, Eureka and Arcata including having it delivered to Rio Dell.

He explained that the problem with only allowing a medicinal market is that manufacturers are restricted to purchase only Medicinal (M) raw materials and most of the local cultivators are focusing on the larger Adult (A) market. In addition, the testing labs would be limited to testing only Medicinal (M) products which is only about 25% of the potential market. He said this would also apply to processors and distributors. He pointed out that restricting cannabis to the (M) market only would put Rio Dell at a competitive disadvantage.

City Manager Knopp continued with a review of the advantages of allowing Adult (A) activities and noted that in addition to allowing businesses to reap the benefits of the anticipated \$4.3 billion industry, it would result in substantial increased tax revenue for the City as well. The revenue could provide services including additional police officers, code enforcement for both the new industry and the black market, infrastructure improvements in sewer, water, drainage, and much needed street repairs. In addition, it would create jobs, trigger additional economic and residential development and encourage a legal, regulated market hopefully reducing the black market.

He also pointed out that Measure "U", the City's local sales tax measure which generates approximately \$255,000 a year will end in 2019.

He said staff is recommending the Council consider allowing Adult (A) cannabis activities at the Humboldt Rio Dell Business Park and encouraged them to listen to the comments and concerns of stakeholders. He said staff is looking for direction from the Council and the range of options would include either 1) to terminate any action; 2) to refer the matter back to the Planning Commission; or 3) to direct staff to return to Council with the first reading of the draft ordinance.

Mayor Wilson opened the public hearing to receive public comment on the proposed matter.

Glen Broder addressed the Council and said he was very interested in Rio Dell because of the primary focus on medical cannabis. As the State progressed it made Rio Dell more difficult to deal with because they would be restricted to medical providers only. He said without Adult (A) activities it will limit the size of companies. He said having it would help patients as products could be distributed to more parts of the State.

Susan Combs, CEO of CW Ranch in the Salmon Creek watershed presented correspondence to the Council (Attachment 2 to these minutes) urging the Council to expand the cannabis permitting process to include Adult (A) activities. She pointed out that as a permitted mom and pop cannabis business they have encountered a tremendous bottle neck with regard to seeking legal outlets for their medical and adult use products. She pointed out that studies show an expansion of adult use cannabis as the medical market shrinks and Rio Dell is in a unique position to take advantage of that expanding market. She said adding adult use to the permit process not only will help Rio Dell but the growing number of permitted cultivators seeking to move away from a non-regulated black market and provide tested, tracked, safe products to the medical consumer as well as the adult consumer.

Glen White addressed the Council and commented that his project has obviously been delayed but indicated that he would be ready to submit application for a building permit in approximately two (2) weeks. He advised the Council that there is currently a huge demand for adult cannabis although it may level out in time because of the taxes. He pointed out that his development alone requires an \$8-10 million investment just for the shell and expressed concern for their tenants who are also concerned about investing \$1.5 million, for example a testing facility that will be restricted to testing only medical cannabis. He said the difference in the medical market that kept everyone in business and vertically integrated is that there are a lot of people as everyone knows, consuming cannabis under a medical card for personal use. The goal is to bring cannabis out of the hills so it can be tested, tracked and traced. The only difference in Medical (M) and Adult (A) cannabis is the label and if the Council doesn't wrap their arms around it, the developers will go elsewhere. He encouraged the Council to put the taxes back into Rio Dell by expanding the permitting process to include Adult (A) activities.

He commented that he recently visited an FDA laboratory (BioZone) in Pittsburg, CA and they want to become a component of what his business will be doing such as producing medical salves, creams, applications etc. and they have a product called "gelatine" that has CBD added that they are marketing. He said they also want to be able to kick back a percentage of gross profits to medical research which is what he would like to do. In the end if they are limited to the medical market only, there will be no extra profits to go toward medical research. He added that everyone knows there is a federal cloud hanging over everything but it will likely always be there. He said if Jeff Sessions and the Federal government comes after California and limits permits to medical only, those store fronts will still be there and they will move back into the medical only market. He urged the Council to help create the flow and get the product out of the hill and get it regulated.

Heidi Schneider, Rio Dell Holdings said that they were in the process of permitting a large project and Adult (A) activities are a huge factor in their success. She said with both Medical (M) and Adult (A) type activities, they anticipate the creation of 50-60 jobs; without it they might as well go somewhere else.

Nick Angeloff addressed the Council as President of the Chamber of Commerce and said in looking at this issue objectively there are several factors to consider. Without the Adult (A) activities, access to products will be much more difficult. Also, the tax benefit to the City would be limited to 25% of the market rather than 100% resulting in less money available for enforcement efforts not only at the business park but on this side of the river as well. He noted that since there will be no dispensaries in the City there is really no difference between Medical (M) cannabis and Adult (A) cannabis.

He emphasized the fact that the City's main focus on the industry has been for medical research and suggested it be stated as such in the ordinance and that the term "Medical Cannabis" be changed to "Commercial Cannabis" with the inclusion of Adult (A) activities to let the developers be on a competitive paying field.

Alex Moore, Honeydew Farms noted that they currently own two (2) parcels at the Humboldt Rio Dell Business Park and without the inclusion of Adult (A) activities they will be forced to terminate their project.

Teisha Mechetti, Agricultural Specialist, Ag Dynamix pointed out that legislation has led to legalization of adult use cannabis and that both medical cannabis and adult cannabis are regulated the same. She said she sees Rio Dell as becoming a service base and Adult (A) use becoming predominant. As such she said she would hate to see it bottle neck now. From an economic aspect, it is a wise move for the City to expand the regulations to include adult cannabis as it would be an economic stimulator for the City.

Shannon McWhorter commented that he and his brother own a 3 acre parcel in the business park and are currently working on a multi-million dollar project. He said the way the State has moved the bar up and down has made Rio Dell's ordinance obsolete as far as being competitive with the rest of the market and encouraged the Council to look real hard and allow both medical and adult cannabis activities.

Tina Christensen, local realtor, addressed the Council and said that over the years she has seen industries come and go pointing out the decline in the fishing and timber industry. She said it is sometimes hard for our older folks to accept that change is eminent. Everyone may not like it but it is happening so they have to accept it and move forward. She recognized the young entrepreneurs with innovative ideas coming forward with what was a hidden industry for so many years and now there is an avenue to make it legal and expressed support for the inclusion of adult cannabis activities.

There being no further public comment, the public hearing closed at 7:12 p.m.

Mayor Pro Tem Johnson asked Chief of Police Conner to comment on the subject.

Chief of Police Conner commented that he has been involved in law enforcement for 25 years and Prop 215 has been in place for approximately 20 years. The reality is that the majority of cannabis acquired under 215 legislation was for recreational use rather than medical use as intended. He said his belief is that the main purpose of regulating cannabis is to bring in the black market and decrease environmental damage and public risk by reducing the number of illegal hash labs. Also to protect streams and wildlife and preserve water supplies. He said the tax revenue coming into the City will provide for increased enforcement to force the black market to stop growing in an unsafe environment.

Community Development Director Caldwell pointed out that had the City not annexed the sawmill site, it would be developed as a cannabis park under the County's jurisdiction with both medical and adult cannabis activities and the County would benefit from the taxes rather than the City. He said the City has the unique opportunity to capitalize on this industry with the creation of jobs, increased tax revenue and economic development. He commented that this

is the best economic opportunity he has seen in Humboldt County in the entire 35 years he has lived here.

Mayor Pro Tem Johnson said he would like staff to work with the City Attorney and develop a draft ordinance to include both medical and adult cannabis.

Councilmember Marks was in support of scheduling a study session with the city council and the planning commission to review the proposed changes prior to submittal of the draft ordinance.

Mayor Wilson agreed and said it is obvious there needs to be further discussion on the ordinance with the planning commission and the Council as a whole. He commented that it was originally thought that medical users would be able to purchase cannabis at large then decide its end use but more recently the Bureau of Cannabis Control has made it crystal clear that Adult (A) cannabis can only be used for (A) products and the same thing with Medical (M) cannabis.

He suggested a public study session be scheduled with the Council, Planning Commission and the stakeholders. He added that the City Council as a whole needs to come to a conclusion on what they want the end picture of the City to look like. The Council has huge latitude in the ability to create ordinances and the ordinance needs to be well vetted before bringing it forward for adoption.

Councilmember Garnes expressed concern about the review becoming a long drawn out process and said the Council needs to allow legal businesses to thrive when the City doesn't have anything else to give them except the ability to thrive. She pointed out that the ordinance doesn't allow retail sales and no one is talking about destroying the City or putting cannabis in the hands of children. If the businesses can't make a profit then the City doesn't receive those profits in taxes. She said the reality is that both medical and adult cannabis are legal in California and the voters have spoken so it doesn't make sense to draw the process out. She noted that the Council has restricted all activities across the river, there are developers who are willing to invest millions of dollars which can go towards repairing the City's horrible streets yet the Council is sitting here trying to decide whether to allow them to move forward. She said it is an injustice to the stakeholders and the citizens of Rio Dell if the Council doesn't take this opportunity to fix this city because they are trying to decide whether adult cannabis activities should be allowed when it's already legal. She suggested staff be directed to simply remove the word "medical" from the text of the ordinance and bring it back to Council.

Mayor Wilson commented that he would still like to have a study session with the full Council and Planning Commission so everyone is on the same page.

Community Development Director Caldwell said one option would be to hold the study session on January 23rd during the regular Planning Commission meeting.

Mayor Pro Tem Johnson announced that he would be out of town until February 1st but had no objection of holding the study session in his absence as he had already expressed his opinion about the ordinance.

A Study Session with the Planning Commission was scheduled for January 23rd at 6:00 p.m. as suggested.

Mayor Wilson called for a 5 minute recess at this time, 7:30 p.m.

The meeting reconvened at 7:35 p.m.

SPECIAL PRESENTATIONS/STUDY SESSIONS

Annual Financial Report for FY Ended 6/30/17 Independent Auditor's Report Management Discussion and Analysis (MD&A)

Finance Director Woodcox introduced Mr. Joe Arch, the City's auditor from JJA, CPA's who was present to provide a report on the City's audited Financial Statements for FY 2016/17.

He began by reviewing the financial highlights and provided a breakdown of the various components of the audit including the Independent Auditors' Report; Management Discussion and Analysis (MD&A); and Basic Financial Statements.

He said the auditor's responsibility is to conduct an audit in accordance with auditing standards generally accepted in the United States and the standards applicable to financial audits contained in *Government Auditing Standards* to obtain reasonable assurance about whether the financial statements are free from material misstatement. After which, they are required to express an opinion on the financial statements based on the audit.

The City received an unqualified opinion in that no material weaknesses were identified, and that the controls that produce the financial statements are effective.

He reported the City's net position at \$25,981,162; an increase of \$829,742 from the prior year; \$20,137,780 in capital assets; \$443,869 in restricted funds and 5,399,513 in unrestricted. He pointed out that the City's unrestricted fund balance is good because there is no unfunded *Other Post-Employment Benefits (OPED's)* to report unlike numerous other cities throughout the state that have incurred massive unfunded retirement benefit liabilities for retiree health care.

He continued with review of the Balance Sheet; Statement of Revenues and Expenditures, and Financial Statements for each of the individual funds.

Overall Citywide revenues increased by \$86,618 compared to the prior year and expenditures decreased by \$235,205.

In summary, he noted that the city is in a solid position financially and went into FY 2017/18 with a balanced budget with the economic outlook for the short and long term considered stable, with the exception of the streets fund. The stabilization was reported as a result of a continuing and reliable tax revenue stream, adequate utility rates, and the City's efforts over the past years to contain and control expenditures.

Mayor Wilson called for public comment on the audit report.

Nick Angeloff congratulated the finance department for a job well done.

SPECIAL CALL ITEMS/COMMUNITY AFFAIRS

Approve Design and Location for Sculpture Pedestals

City Manager Knopp provided a staff report and distributed a map representing the new locations for the pedestals as suggested by the Council at the last meeting.

Mayor Pro Tem Johnson commented that he went out and looked at the proposed locations and saw no problem with placement of the north pedestal but agreed with staff that the median in front of City Hall was too congested for the second pedestal. As suggested by staff, he agreed the second pedestal should be placed in the median adjacent to the Dollar General and Kreations.

After brief discussion, the Council agreed to place the first pedestal closer to the middle of the north median between the trees, and the second pedestal adjacent to the common property line between the Dollar General and Kreations.

Mayor Wilson called for public comment on the proposed locations.

Nick Angeloff agreed and said with regard to the pedestal adjacent to the Chamber of Commerce office they would like to find funding to construct an alternate pedestal and keep the existing pedestal for the Christmas tree; Council concurred.

Bryan Richter agreed with moving the northern pedestal between the trees and commented that he tows trailers and the way it was proposed before would create a hindrance for making turns from Wildwood Ave. onto Painter St.

ORDINANCES/SPECIAL RESOLUTIONS/PUBLIC HEARINGS

Public Hearing – Community Development Block Grant (CDBG) Closeout for 13-CDBG-8971

Community Development Director Caldwell provided a staff report and explained the CDBG program requires jurisdictions to have a public hearing with closeout of projects to allow members of the public to comment on the projects.

He said the City received \$100,000 in CDBG grant funding for a Planning and Technical Assistance (PTA) grant for a drainage study and preliminary improvement plans in the Belleview/Ogle neighborhood. The cost of the study and preliminary improvement plans was approximately \$57,000. He said the City requested the remaining \$43,000 be utilized as a supplement to the City's CDBG Program Income (PI) to implement the Architectural Barrier Removal (ABR) (Porch) Project at City Hall.

The public hearing was opened at 8:02 to receive public comment regarding the two (2) projects; no public comment was received so the public hearing was closed.

Councilmember Garnes commented on the ABR project and said there was a recent article in Western Cities magazine asking cities to send in photos of recent renovations noting it would be nice to do that for the porch project if it weren't for the color of the stucco which she said she still has a problem with.

City Manager Knopp indicated that there are still some final items to be completed on the project including landscaping and painting of the stucco in the spring after it cures.

Mayor Pro Tem Johnson said it was a much needed improvement and that he was impressed with the contractor and quality of the work.

REPORTS/STAFF COMMUNICATIONS

City Manager Knopp stated that he would be sending out an email to councilmembers to determine their availability for the remainder of the fiscal year in order to forecast meetings.

Mayor Wilson indicated that he would be unavailable to attend the second meeting in July.

Mayor Pro Tem Johnson announced that he would be leaving on Thursday and returning February 1, 2018.

Finance Director Woodcox stated that she had nothing new to report at this time.

Community Development Director Caldwell reported on recent activities and events and said that he attended a Track and Trace workshop in Eureka and what came out of that workshop is that he likes the SICPA program better than what the State is using. He said the City hosted a Track and Trace training for stakeholders the prior week and will be arranging training for the City's administrative staff. He said he also attended a workshop on the California Electrical Code in Sacramento which was by far the best training he had attended.

He also announced at the next Planning Commission meeting on January 23rd, in addition to the study session with the City Council, staff will be presenting revisions to the Sign Regulations. With regard to the Study Session, he noted that he will distribute copies of the Counties Cannabis ordinance as well as the City's draft ordinance.

COUNCIL REPORTS/COMMUNICATIONS

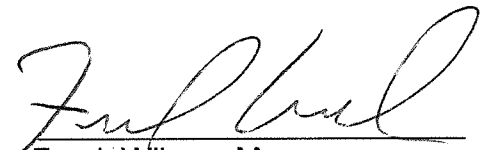
Councilmember Garnes announced that she was selected by the League of California to sit on the Environmental Quality Policy Committee and will be attending a meeting in Sacramento on Thursday and Friday.

Mayor Wilson reported on his attendance at the last Humboldt Waste Management Authority (HWMA) meeting and reported that the Humboldt Bay Keepers sued HWMA and part of the settlement agreement requires HWMA to repair a portion of the Marsh near Elk River. As a result, it will cost HWMA additional money for monitoring and reporting.

Mayor Pro Tem Johnson announced the cancellation of the January 18th Humboldt County Association of Governments (HCAOG) meeting.


ADJOURNMENT

Motion was made by Johnson/Garnes to adjourn the meeting at 8:17 p.m. to the February 6, 2018 regular meeting. Motion carried 4-0.



Frank Wilson, Mayor

Attest:



Karen Dunham, City Clerk

Current Cannabis Proposals in Rio Dell

- Current Cannabis Proposals in Rio Dell
- 50,000 square feet of development approved by planning commission; \$8,000,000 in investments currently proposed and 53 jobs.
- Another 100,000 square feet currently under review.
- Potentially up to \$980,000 in annual revenue that can be used for infrastructure, public safety and other community services.
- Development of an abandoned mill site that had no prior developer interest.

Cannabis Background and Facts

California 5.8 Billion Dollar Industry by 2021
Recreational Sales \$4.3 billion (74%); Medical Sales \$1.5 billion (26%)
Source: BDS Analytics/Arcview Market Research

Statewide, Voters Approved Proposition 64 Adult Use of Marijuana Act (AUMA) on November 8, 2016.

Rio Dell Vote

46.89% YES 53.11% NO

Statewide Vote

57.13% YES 42.87% NO

Measure T Cannabis Advisory Vote 2016

53.41% YES

46.59% NO

“Should the City of Rio Dell, by the necessary and appropriate action, permit commercial cannabis business activity, including cannabis cultivation, testing, processing and sales, within the area of the City that is located to the north of the Eel River and commonly referred to as the Sawmill Annexation Area if that activity is subject to local taxation?”

Measure X Cannabis Tax Vote 2017

80.96% YES

19.04% NO

“Shall the ordinance creating a new business tax of up to five dollars per square foot of space utilized for certain commercial cannabis cultivation activity and,

- Locally, Humboldt County, Eureka and Arcata are in the process of eliminating references to medical commercial cannabis so as to allow both recreational and medical cannabis activities.
- As the LOCC points out, a key fact to remember is that there is little appreciable difference between an ordinance that regulates medical marijuana, and an ordinance that regulates recreational marijuana. *Both are agricultural products and are chemically identical for purposes of local regulation.*
- The County is currently allowing potentially up to 15 dispensaries to be located throughout the unincorporated areas, potentially just outside of city limits.
- Prohibiting Adult (A) activities will not eliminate recreational cannabis in Rio Dell. Residents may cultivate up to six (6) plants and/or purchase recreational cannabis in the County, Eureka and Arcata. In addition, they can have it delivered here in Rio Dell as well.
- The only difference between the products of the Adult (A) market and the Medicinal (M) market is the “A” or the “M” on the label.

Medicinal Market Only

- Manufacturers are restricted to purchase only Medicinal (M) raw materials. Most local farmers are focusing on the larger Adult (A) market.
- The approved testing lab (DigiPath) would be limited to testing only Medicinal (M) products. This only allows access to about 25% of the potential market.
- Processors and distributors would also be limited to processing and distributing Medicinal (M) products. Again that’s only about 25% of the expected market.
- Nurseries, including tissue culture propagation would be limited to Medicinal (M) plants. The proposed nurseries would not be able to provide

To: Rio Dell City Council

From: Susan Combes

Re: Adult Cannabis Use

Date: January 16, 2018

Thank you for the opportunity to address the council. I am Susan Combes, CEO of CW Ranch. We are a county permitted 5,000 square foot mom and pop (minus the pop) cultivation business in the Salmon Creek watershed and have applied for a temporary state permit.

As we seek legal outlets for our medical and adult use products we encounter a tremendous bottle neck. There is a severe shortage of licensed distributors and dispensaries, especially those permitting adult sales as well as medical. I urge you to expand your permitting process to include adult use.

Studies of the market show an expansion of adult use as the medical market shrinks. Adding adult use to those seeking Rio Dell permits will provide additional revenue for your city, create new jobs and expand opportunities for those of us seeking legal outlets for our products. Rio Dell is centrally located on the 101 corridor and therefore in a unique position to take advantage of a market that is sure to expand. Adding adult use to your permits helps not only Rio Dell but the growing number of permitted cultivators throughout Humboldt County seeking to move away from a non-regulated black market and provide tested, tracked, safe, quality products to the adult consumer as well as those using cannabis medically.

Again, thank you for the opportunity to speak and I want to say that I love what Rio Dell has done to beautify your main street and revitalize your town.