AGENDA
RIO DELL CITY COUNCIL
REGULAR MEETING - 6:30 P.M.
TUESDAY, JULY 19, 2016
CITY COUNCIL CHAMBERS
675 WILDWOOD AVENUE

WELCOME *. . . By your presence in the City Council Chambers, you are participating in the process of representative government. Copies of this agenda, staff reports and other material available to the City Council are available at the City Clerk's office in City Hall, 675 Wildwood Avenue. Your City Government welcomes your interest and hopes you will attend and participate in Rio Dell City Council meetings often.*

In compliance with the American with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Office of the City Clerk at (707) 764-3532. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to assure accessibility to the meeting.

A. CALL TO ORDER

B. ROLL CALL

C. PLEDGE OF ALLEGIANCE

D. CEREMONIAL MATTERS

I. PUBLIC PRESENTATIONS

This time is for persons who wish to address the Council on any matter not on this agenda and over which the Council has jurisdiction. As such, a dialogue with the Council or staff is not intended. Items requiring Council action not listed on this agenda may be placed on the next regular agenda for consideration if the Council directs, unless a finding is made by at least 2/3rds of the Council that the item came up after the agenda was posted and is of an urgency nature requiring immediate action. Please limit comments to a maximum of 3 minutes.

J. CONSENT CALENDAR

The Consent Calendar adopting the printed recommended Council action will be enacted with one vote. The Mayor will first ask the staff, the public, and the Council embers if there is anyone who wishes to address any matter on the Consent Calendar. The matters removed from the Consent Calendar will be considered individually in the next section, "SPECIAL CALL ITEMS".

1) 2016/0719.01 - Approve Minutes of the July 5, 2016 Regular Meeting **(ACTION)**

2) 2016/0719.02 - Approve Resolution No. 1304-2016 Confirmation of the FY 2016/17 Tax Assessment for Financing of the 1978 Sewer Assessment Bonds **(ACTION)** 28

3) 2016/0719.03 - Authorize the Mayor to Sign Agreement with County of Humboldt for Measure Z Funding **(ACTION)** 41

K. ITEMS REMOVED FROM THE CONSENT CALENDAR

L. SPECIAL PRESENTATIONS/STUDY SESSIONS

1) 2016/0719.04 - Presentation and Discussion on City Engineering Projects by GHD **(RECEIVE AND FILE)** 64

M. SPECIAL CALL ITEMS/COMMUNITY AFFAIRS

N. ORDINANCES/SPECIAL RESOLUTIONS/PUBLIC HEARINGS

1) 2016/0719.05 - Ordinance No. 342-2016 Establishing Medical Cannabis Commercial Land Use Regulations, Section 17.30.195 of the Rio Dell Municipal Code (RCMC) **(DISCUSSION/POSSIBLE ACTION)** 77

O. REPORTS/STAFF COMMUNICATIONS

P. COUNCIL REPORTS/COMMUNICATIONS

Q. ADJOURNMENT

The next regular City Council meeting is scheduled for Tuesday, August 2, 2016 at 6:30 p.m.

RIO DELL CITY COUNCIL
REGULAR MEETING
JULY 5, 2016
MINUTES

The regular meeting of the Rio Dell City Council was called to order at 6:30 pm by Mayor Wilson.

ROLL CALL: Present: Mayor Wilson, Mayor Pro Tem Johnson, Councilmembers Garnes, Marks, and Thompson

Others Present: City Manager Knopp, Finance Director Woodcox, Chief of Police Hill, City Clerk Dunham and City Attorney Gans

Absent: Community Development Director Caldwell, Water/Roadways Superintendent Jensen, Wastewater Superintendent Trainee Yaple (excused)

City Manager Knopp stated for clarification that in a recent press release related to the Medical Marijuana Land Use Ordinance (MMLUO), it was reported that the Planning Commission recommended approval by the City Council with a vote of 4-0. He said at that meeting on April 12, 2016, there were only three (3) members present and the vote was actually 3-0.

Mayor Wilson announced a minor change in the order of the agenda stating that the Special Presentation by Marcella Clem, HCAOG would be given at this time.

SPECIAL PRESENTATIONS/STUDY SESSIONS

Presentation by Marcella Clem, Humboldt County Association of Governments (HCAOG) and Adoption of Resolution No. 1302-2016 Approving the Humboldt County Transportation Ballot Measure Expenditure Plan and Recommendation to the Humboldt County Board of Supervisors to Place a 20-Year Transportation Sales Tax Measure on the November 8, 2016 General Election Ballot

Marcella Clem began by stating the reason for addressing the Council is for possible consideration of the Humboldt County Transportation Ballot Measure Expenditure Plan placing a 20-year ½ cent Transportation Sales Tax measure on

The November, 2016 General Election Ballot.

She provided background information and said state and federal transportation funding has dropped significantly in recent years and at the beginning of this year, transportation officials took action cutting previously promised funding for road and transit projects by $754 million covering the next five (5) years. She noted that gas tax funds have not been raised in 20 years, and with vehicles becoming more fuel efficient than ever, the federal transportation funding agency came up with another plan for funding which is a road charge user fee pilot program related to vehicle miles traveled. She said the two (2) legislative bills proposed by the Assembly Committee on Transportation have not shown much progress.

She said as a result of the decline in transportation funding, revenues available to operate, maintain and improve the local transportation system have not kept up with the needs of the communities; a new, reliable source of transportation funding is needed.

She said the proposed Sales Tax Measure is expected to generate $10 million annually with no more than ½ of one percent of the funds used for administrative costs of HCAOG to fund independent audits, staff an oversight committee and develop an annual report; the remaining 99.5% of the funds will be allocated to the seven (7) cities and the County. She noted that the allocation formula includes a $50,000 base for the four (4) smallest cities in the County which are Blue Lake, Ferndale, Rio Dell and Trinidad, with the balance allocated by road miles, population and sales tax generations. The estimated annual allocation for Rio Dell was $185,632; over the 20-year cycle $3,712,638.

Eligible uses for the funds included maintenance, rehabilitation, and reconstruction of existing transportation including trails and transit; local matching leveraging of state and federal funds for road, trails and transit infrastructure; and retention of commercial air service. She pointed out that the County and cities will be allowed to select their own transportation projects.

Marcella explained that a Taxpayer Oversight Committee will be created to provide an enhanced level of accountability for expenditures to ensure that all voter mandates are carried out and that the financial integrity and performance of

the program is maintained. Also, annual fiscal and compliance audits will be conducted by an independent Certified Public Accountant, selected by the Committee to assure the revenues expended are appropriate.

She then referred to the 2011 Pavement Condition Index (PCI) which showed Rio Dell at 58 which means the transportation system is "at risk." That number was estimated to go down to 36 or 37 in ten (10) years which means "poor" condition; indicating the lower the number, the more it costs per square foot to repair.

City Manager Knopp commented that one of his concerns was in regard to the Maintenance and Effort requirement which could theoretically increase the City's obligation of general fund dollars towards streets, noting that the general fund is not in the greatest position with the vast majority of those funds going toward police services. He said in talking with Marcella, that concern has been alleviated and shouldn't factor into the Council's decision.

Mayor Pro Tem Johnson stated for a point of clarification that the HCAOG Board's allocation of $50,000 to each of the small cities is not a one-time thing but rather for 20 years which is a million dollars to the City. Also when talking about SB-1, it wouldn't really do anything to improve the city's road system and the City would be putting in about $150,000 to $160,000 and year and only get about $80,000 in benefit. With this measure, $80,000 in taxes would generate $185,000 back to the City, making it an extremely good deal for the City.

Councilmember Marks said information in the Council packet indicated that the formula is based on road miles and sales tax and asked if the sales tax in the City goes up or down, if it will affect with the amount the City gets.

Marcella commented that this is something that could be discussed with the Taxpayer Oversight Committee but currently the formula is based on population numbers, Caltrans road data from 2013, and 2015 sales tax allocations. She said it could be that they will get new numbers every year for calculating adjustments. She commented that when numbers are volatile it makes public works directors a little uneasy because it is difficult to put together a budget. She said it would absolutely be the Board's decision but at this point they have not

had that discussion. To revisit the formula, it would require a 2/3 vote of the HCAOG Board.

Marcella said another important point she wanted to make is that this is a Special Tax rather than a General Tax so the funds will not go into the general fund but a separate fund so that all expenditures can be tracked. She noted that the measure also requires 2/3 voter approval so the threshold is high but with the requirement of the expenditure plan, oversight committee and other safeguards, it is a necessary thing to get people to feel comfortable in trusting government to do what they say they are going to do with the funds.

Mayor Wilson called for public comment on the proposed resolution.

City Manager Knopp explained for the benefit of the public the new procedures in place for citizens who wish to address the Council and directed citizens to the individual speaker cards and corresponding baskets for comments related to the current agenda item (HCAOG Transportation Sales Tax Measure), the Cannabis Taxation Ordinance, or public comments in general related to items not on this agenda. He also noted there is a timer which will be set at three (3) minutes for each speaker. He said this process will help the Mayor to facilitate the meeting and alternate between pros and cons on a particular subject matter.

Alonzo Bradford expressed his support for the Transportation Sales Tax Measure and said the money is needed for street repairs.

Melissa Marks commented that $50,000 sounds good now but in 20 years it may not be and asked if there is an adjustment for inflation.

Marcella said it has not been proposed but the Board could revisit it with 2/3 vote.

Nick Angeloff commented that he was one of the 400 polled and was glad to see the results. He asked if the funds will be dedicated to roads and potholes as opposed to other transportation needs.

Marcella said what the polls showed was that people don't want Caltrans to construct new roads but to maintain the current road system.

She noted that HCAOG did include trails and transit and each jurisdiction will be able to decide how the money is to be used.

Motion was made by Johnson/Thompson to approve Resolution No. 302-2016 approving the Humboldt County Transportation Ballot Measure Expenditure Plan and recommending to the Humboldt County Board of Supervisors to place a 20-year Transportation Sales Tax Measure on the November 8, 2016 General Election ballot. Motion carried 5-0.

PUBLIC PRESENTATIONS

Julie Woodall commented that she had attended a previous meeting to address the Council on the proposed Medical Cannabis Land Use Ordinance but since her voice was hijacked by a citizen that caused the meeting to be adjourned she did not get the opportunity.

She said she is on the Planning Commission and that the Commission spent a lot of time reviewing the ordinance and thought they did a good job anticipating things that may have been an issue and making modifications to make it easier to accept by the City Council. She clarified that the Planning Commission, on April 12, 2016 voted to recommend the City Council approve the Medical Marijuana Commercial Land Use Regulations by a vote of 3-0 with her making the motion and Commissioner Marks seconding the motion.

She said in the beginning she wasn't particularly in support of the proposed ordinance but after learning more than she ever thought she could about cannabis, realized she was probably more in support of it than not. She said her intent is not to try and influence anyone as everyone's opinion is their own but the Council had an opportunity to let the citizens determine if they wanted to allow the legal cannabis industry in the City and would have gone to vote if they had approved the ordinance and tax measure. She said she would have liked for the citizens of Rio Dell to have a say in the decision.

She pointed out the economic opportunities the industry could bring to the City and said the general fund revenue could essentially double or triple. She said the revenue could be used to improve the City's infrastructure and potentially subsidize the water fund in lieu of the upcoming water rate increase or support a children's activity center. She noted in other areas, funds generated from the industry could go toward drug education programs which are some of the reasons that citizens should be given the opportunity to make the decision on whether the industry should be allowed in the City.

Kathleen Kemp submitted a speaker card but declined to speak at this time.

Jennifer Henderson addressed the Council as a long-term resident of Humboldt County and as someone who is possibly interested in opening a business and moving to Rio Dell. She said she has always loved the City and admired the way the City Council runs things. She said obviously Rio Dell is a town that is very loved by the people and said she appreciates all of the positive things going on here.

She said one of the things she feels everyone needs to do is to let go of their own personal feelings and emotions and allow new business opportunities to come into the community and create jobs for people that do things right. She pointed out that this was a "Hallmark" timber industry where people do thing right and do things ethically. She added that she thinks Rio Dell is a really good venue for businesses to come into with that high level of integrity and honor.

She presented a suggestion to the Council whereby the City enacts a 5% discretionary tax on all new cannabis related businesses to be used solely at the discretion of the City Council whether it is a child day care center, creation of a jobs program, or putting a new roof on City Hall. She said having that boost of revenue would be good for the community and asked the Council to consider the possibilities it could offer.

She commented that this suggestion was made in hopes of providing a positive, work-together attitude to get things moving forward and said she would like the opportunity to further address the Council later on.

James Bidwell addressed the Council and asked for a motion to open up discussion regarding the Medical Cannabis Land Use Ordinance that was voted down at the June 21, 2016 city council meeting. He stated that he and other group members gathered signatures in support of a proposed ordinance which allows legitimate cannabis businesses to come into Rio Dell, and in efforts to treat businesses equally, proposes a 2% tax on all cannabis businesses. He said he would like citizens to have an opportunity to vote on the future of the City and presented a copy of a proposed ordinance for Council's consideration. (attachment A to these minutes).

Mayor Wilson said it would be placed in the hands of the city manager to deal with under the jurisdiction of the law and legal process.

Nick Angeloff made the announcement that the East-West Rail Committee for Trinity County has been awarded $345,000 to conduct a feasibility study through the State Rail Committee Alliance which has been a long time coming. He said they will finally be able to see if it is viable to connect the port with the National Rail System. He said should it be determined to be viable and feasible, the County is potentially looking at 7,000 or more jobs in this area if a railroad is built. He noted that construction of a railroad is not the only benefit; there would be a reduction in transportation costs and local businesses would be piggy-backing on long-haul rail services which is highly significant as transportation costs for trucking alone are 10% higher behind the redwood curtain. He said it would give the area a real competitive advantage and hopefully keep businesses here.

He noted that all of the agreements should be signed by September and by the end of the year or early 2017, should have an answer to the question that has been the nemesis of Humboldt County for the past couple of years as to the viability of building a railroad to connect to the Port of Humboldt.

Sara Westbrook spoke as a long-term resident and said she is opposed to the Cannabis Club. She said the Department of Fish and Game has been doing studies since 2010 on the local water shed and said 1 cannabis plant takes 22.7 liters of water per day; if you multiply that by the number of grows there are currently it amounts to a lot of water which is detrimental to the environment. She said it is also giving our children more access to cannabis at a younger age.

She added that she knows there are a lot of people in the business operating illegally and so this is already a hot spot and people are coming here from out of the state and even out of the country draining our resources and damaging our watershed. She said the Cannabis Club claims the cannabis industry will allow the city to fix the streets, clean up the city and do all kinds of things but on the contrary she thinks it will become an eyesore with transients coming into town from other areas. She commented that Chief Hill has worked hard to clean up Rio Dell and bring it back to where it once was and this will not help the situation. She ended by stating that she personally is not in favor of cannabis businesses coming into the city.

Alonzo Bradford stated that the Emerald Triangle Political Action Committee is offering its support to the citizens of Rio Dell.

He said the City Council voted down a very good ordinance with a vote of 3-2 at their June 21, 2016 meeting and against allowing the citizens voices to be heard in November by taking the Cannabis Business Tax Measure and placing it on the ballot.

He said they have been out discussing the situation with hundreds of citizens, many who are very disappointed with the Council's decision. He said people were willing to compromise and comply with whatever regulations and taxes the Council decided to impose but it was still shot down. He said he is really hoping the Council will be willing to open discussions back up and take another look at the ordinance. He said they worked hard on a new ordinance that covers every issue from security to track and trace and is based on the draft ordinance the Planning Commission approved. The proposed changes included adding cannabis related activities in any other zones that would normally accommodate agricultural production; processing and value added processing; changing language for all cannabis related activities to "cannabis businesses" to treat all cannabis businesses equally; imposing a straight 2% tax on gross receipts for all cannabis businesses to treat them all equal; changed zoning to allow any cannabis businesses engaging in activities that would be principally or conditionally permitted to be allowed in those zones with a conditional use permit; and updated language to change all reference to "marijuana" to "cannabis."

Sue Strahan read a statement (attachment B to these minutes) and spoke as a 50 year citizen of the City and began by thanking the Council for their time, effort, and concern that they give freely to the City of Rio Dell.

She said it saddens her to think that one council member has taken upon herself to cause discord among the City Council and to bring division to this little city. She referred to the letter in the local paper written by Councilmember Garnes and disagreed with her statement that the ordinance was well vetted. She said she attended four of the nine meetings held at City Hall and at each meeting there were many questions that were unanswered.

She thanked the three (3) Wise Men (referring to Mayor Wilson, Councilmembers Marks and Thompson) who listened and weighed all the information given to them and did a thorough examination. She said as a Council it is their responsibility to bring to the people an ordinance that is good for the city, profitable for the city, and one that will benefit the city; this ordinance was none of those things.

She said like the city of Fortuna, the Council could have simply said NO in the beginning. She added that the City was promised a rainbow with a pot of gold worth $1 million but in all reality, was more like $100,000. She said considering the crime that has been proven to follow such an undertaking, it would cost more per year than what would be gained, not to mention staffing, adding additional payroll and increased salaries for Planning staff and added costs for the city attorney. She once again gave a big thank you to the three council members who stood for the business of the city, who stood for the people of our city and who stands for the children of our city now and in the future.

Trina Pockett addressed the Council and said she is a resident, homeowner and mother of three. She said both she and her husband work full time and love this city. She commented that she spent 18 years in the non-profit industry most recently and her previous position was working with the MGC (Multigenerational Center) in Fortuna dedicating time to working with kids at risk. She said she is speaking not only for those who can speak for themselves but for those kids who can't speak for themselves.

She went on to say that she is here tonight to thank the City Council for voting down having a dispensary in our community for multiple reasons. She said she believes as a community member and a cancer survivor that there are a lot of people that need medical marijuana. However; there are a lot of loopholes for getting marijuana so we're fooling ourselves if we think people coming in for it are because of legitimate needs. She said she feels it would change the fabric of our community.

She stated that she is not asking the Council to not put in place what the state of California is asking to be put in place but asking the Council to not be front runners in allowing dispensaries because she thinks if they do they will be deciding what Rio Dell will be known for in this community. Also, it says to these young kids that's what our identity is. The City will be known as one of the first cities in the community with a dispensary so these kids who already don't have a lot offered to them or have the same opportunities as kids who may be a little wealthier, this is what they're going to see and it really will make a difference. She said what she wants for kids here is to be focused on education, focused on opportunities, and on trade schools. She doesn't want them to look down the road and see people hanging out smoking marijuana; the City already has those issues without a dispensary. She commented that in the last 10 years Rio Dell has done a great job to change its image; our city streets are looking better, there are good families in the community, the schools have done a magnificent job and this will be a step backwards.

She said she understands the economic reasons why the Council might want to consider it but doesn't think they should be short-sided. She added that the Council could take the easy win and take the money but it will only hurt the fabric of the community in the long run. If the dispensary did happen and in one year find out it was a mistake and that this is not the kind of crowd we wanted to bring to our community, the City will lose good families and tax money because people will move.

Dale Radar said he would love the Council to bring the ordinance back for consideration and said medical marijuana became legal in 1997 but the 215 law became convoluted with all the changes over the years and never really provided any concise pathway but this is our pathway. He noted there is tons of support by the community to adopt the ordinance including cancer survivors, leukemia

patients, and people with multiple sclerosis, pancreatitis and a lot of other disappointed people. He noted that the industry is already here, has been here for a long time, and is not going to go away. This is an opportunity to take away from the black market and create legitimate businesses but it's all up to the Council. He said the biggest concern of the community is that the Council took away the right of citizens to vote on whether they want this industry in the community.

There being no further public comment, the public comment portion of the meeting was closed.

CONSENT CALENDAR

Motion was made by Thompson/Garnes to approve the consent calendar including minutes of the June 7, 2016 regular meeting; approval of minutes of the June 21, 2016 regular meeting; to receive and file the check register for May 2016; and to adopt Resolution No. 1301-2016 Calling for a General Municipal Election to fill two (2) City Council seats, requesting consolidation with the General Election, providing for Notice of Election, and adopting policies pertaining to candidate statements and fees. Motion carried 5-0.

ORDINANCES/SPECIAL RESOLUTIONS/PUBLIC HEARINGS

Resolution No. 1303-2016 Submitting to the Voters the Proposed Cannabis Taxation Ordinance No. 346-2016, Requesting the Board of Supervisors to Authorize Consolidation of Said Election with the General Election and Directing the City Clerk to Take all Actions Required by Law to Prepare for and Conduct the Election

City Manager Knopp provided a staff report and said as the Council is aware, marijuana related items were basically split into two items; the Medical Cannabis Land Use Ordinance (MCLUO) which the Council considered at their June 21, 2016 regular meeting but did not achieve a majority vote to adopt, and the Cannabis Tax Measure which is a general tax requiring 50% plus 1 voter approval. He explained the tax would come into the general fund and ultimately be at the discretion of the City Council as to how those funds would be spent.

He said since there is no land use ordinance in place at this time, there would be no tax derived so theoretically the Council could approve the tax measure to go on the November ballot and the voters could approve it but without the ordinance in place governing that activity it would remain basically inactive until such time an ordinance was adopted.

City Manager Knopp reviewed the time constraints to get a tax measure on the November ballot and said when the agenda calendar was prepared, the target date for approval of the resolution and associated material was set for this meeting. He said upon further review, there could potentially be an option to extend the timeline to July 12, 2016 which would require scheduling a special meeting however; staff is not recommending this option. He noted that one week is not much time for the city or county staff to review the language and get it to the Board of Supervisors for approval.

He said another important clarification is that the resolution requires a 4/5 vote by the council to proceed whereas; if the council chooses to not proceed, a 3/5 vote is required to postpone the question indefinitely.

He then reviewed the proposed ballot language and said the City Attorney Gans was available to answer any questions the council may have.

Councilmember Thompson stated that he has served on the Planning Commission and City Council for many years and has heard numerous times that many of the City's ordinances and resolutions are poorly written. His biggest concern is that this ordinance is also poorly written and that it could be challenged in court. He said the state doesn't even know what the end results are and won't have a system they can trust for probably five years. As such, he doesn't see any reason to put the tax measure on the ballot.

Mayor Pro Tem Johnson thanked the citizens for coming out tonight, either in support or not in support of the various matters before the Council.

He stated that representative democracy is near and dear to the Council's hearts which is why he thinks the Mayor and he chose their shirts tonight (stars and stripes). He said it's really good to see the council chambers filled.

He directed everyone's attention to page 71 of the council packet in the ballot language noting that there is an estimate of the tax to potentially be generated if this measure is voted in and there is a land use ordinance in effect which is $2.7 million; not the $100,000 quoted earlier. He asked staff to provide a rundown of how that number was derived.

City Manager Knopp distributed a handout with a breakdown of potential annual revenue for the various cannabis related activities and explained the first estimate was one of the original estimates produced by the community development director. He said it was based on a number of assumptions because the nature of this activity is largely a black market activity so there isn't a lot of hard data to come off of.

He explained it is a relatively new state law to include the estimated amount of revenue to be generated in the ballot language.

He noted that staff could go into a tremendous amount of detail but to break it down, the first year could potentially generate $100,000 and at full buildout has potential to generate $2.7 million. He said again what staff did was take the initial estimate and then convert it to the new tax based on the cultivation, then based on the testament of the business tax potentially levied by the Council then ran it through a number of assumptions to say there might be 160,000 ounces of product processed in the City, how much revenue that is estimated to produce and what is the City's tax on that. He said staff ran these particular numbers to come up with the new numbers shown on the bottom of the sheet. He wanted to make it clear once again that the numbers were based on a number of assumptions which is going to be incorrect based on the nature of the industry. He noted that what is clear is that some of the numbers are very likely such as the 100 square foot of cultivation is not unreasonable to estimate what that potential use could generate.

He said at this time of course, there is no Commercial Cannabis Land Use Ordinance allowing this use so there wouldn't be any tax derived until such time there is an ordinance in place.

On the second half of the sheet was the amended version based on the assumptions as described.

Mayor Pro Tem Johnson commented that after the meeting on June 21st, even before he left the council chambers, community members came up to him and said they really wished they had a chance to vote on this matter and as he has been wandering around town, he is hearing the same thing; that the people want to make the decision, not just the city council and he respects that.

Councilmember Marks countered Mayor Pro Tem Johnson's statement and said he had just the opposite experience. He said he voted against the ordinance and has been approached, called, and stopped in stores by several dozen residents thanking him for his vote. He said his response to them was that he didn't feel this ordinance was a good fit for Rio Dell. He added that as it is, he stands firm on his vote.

Councilmember Garnes commented that she thinks the decision should be up to the public and that five people making a decision that affects the quality of life one way or another is too big to decide. She said we can be afraid of what may or may not happen, we can not want any change, and we can say that any change will be bad. She said it's just a matter of how things are implemented and how they are maintained afterwards. She said with something like this, people that know how we feel will talk to us but through the ballot process we all go behind the curtain and nobody knows how anyone votes until it's all said and done and you come up with a number in the end. She said that's all she's saying the Council should do because it's simply too big of an issue to let five people decide. She pointed out that everyone has a vote as a city council person; everyone also has a vote as a citizen of Rio Dell. She said the Council can use that vote and put personal feelings aside. Doing anything else is taking the power away from the people which is what this democracy is all about and giving five city council members the power to make the decision is problematic. She added that as a council they owe it to the citizens of Rio Dell to put something this big in their hands and if someone if afraid of the outcome, then they need to be out knocking on doors, talking to neighbors and telling them you think this is a bad plan and urge them to vote against it; then it doesn't just fall on five people no matter what the decision is.

Councilmember Garnes reiterated that this decision needs to be left up to the citizens of Rio Dell so everyone gets a say. She said that some people came to meetings; a majority did not and registered voters will know this is happening and

they will go to the polls and vote one way or the other. If they don't, it's not on the City Council; it's on the citizens who didn't exercise their right to vote.

Mayor Wilson said he would like to take time to address a couple of issues and clarify where the Council stands on this issue.

He said the last set of City Council minutes were outstanding and he thinks as a whole, Rio Dell has some of the best minutes he has seen in any jurisdiction in the County. He added that if you were to go to Fortuna or some other place you would probably find a short paragraph summarizing the meeting discussion. He said the Council had dialog on a very heated issue with people for and against it and if you go through the minutes, each paragraph provides the detailed discussion. At the June 21, 2016 meeting, the City Clerk was absent and Mrs. Farley basically transcribed word for word the discussion at that meeting with 30 plus pages of minutes.

She said the other thing we should give credit to is Sharon Wolff and the *Rio Dell Times*. He said they, at no charge to the City record all of these meetings including planning commission meetings and puts them on Humboldt Access so citizens can be informed on what's going on in the City. He encouraged citizens to go to the City's website and access the minutes and also watch meetings on the Humboldt Access channel.

He said in regard to the public vote issue, in all of the time the issue was before the Planning Commission and all the time it was before the City Council, there was never anytime except maybe once when Councilmember Thompson referred to it in the beginning that he thought this ought to go to public vote. He pointed out that no action was taken by the rest of the City Council to pursue that and during the rest of these conversations and meetings there was never any mention about a public vote.

He commented that to his knowledge, all of the ordinances and resolutions that have been passed, with the exception of a tax measure which is required by law have gone to public vote. He went on to explain that our system of government is not necessarily a democracy in the true sense of the word "democracy." He said if you go to google and download the Constitution and place it in a word processor with a search and find feature and type in the word "democracy" it will

not be found because it is not in the Constitution. In fact, the word "republic" is only found one time and is found in a sentence that says: "The Constitution guarantees all states a republic form of government." He said in his own words, the difference between a democracy and a republic is that a democracy simply means that a majority rules (50% plus one) so a democracy is basically set up for the majority. A republic is a different type of government that has a Constitution and has a set of laws. A democracy is ruled by man; a republic is by the rule of the law.

He said our whole system is set up in a representative form and your job as an elective is to elect individuals to govern your city, your county, for state or your federal government. The responsibility of the elected officials is to enact laws and ordinances in their respective jurisdictions. He said that is what this City Council was directed to do and at no point including the discussion tonight on this ordinance was any mention that it be passed on because the effective date was tied to passage of the tax measure and there was never any mention that if you don't pass this you are taking away the right of the people. Once the decision was in a negative manner, then it was brought up.

The avenue you have as an elective is if you don't like the job your City Council is doing, this November you have the opportunity to elect two new members of this Council. That is your right and your privilege under the way our law works.

He said getting back to the issue at hand, the estimated revenue number that comes before the Council tonight is $2.7 million. He said citizens can read the two and a half pages of his comments of why he voted the way he did. He said staff's estimate in May was $1.2 million and on June 14th he questioned how staff was going to deal with cash coming into the City because cannabis businesses can't have a bank account because of Federal laws related to large cash deposits.

David Bridge interjected that the law has changed and that he had provided staff with a link to a website for information so handling large amounts of cash is no longer an issue.

Mayor Wilson further stated that when he asked the question regarding how much money would be coming into the City and how it would be handled he was

told by the Community Development Director that it was really not a big deal as 100,000 sq. ft. at that time, was based on a 10% tax so a grow would generate approximately $1 million in which the City would receive $100,000. He said he broke it down to $8,000 a month and indicated that taking in that amount of cash was not a big deal for staff.

He said he once again reiterated it at the June 21st meeting and brought up the same numbers and said something to the effect that if he was wrong with regard to these figures to say so because he had made some very, very conservative estimations of what would be generated from 100,000 sq. ft. of grows. He pointed out that for those that may not be familiar with what 10,000 sq. ft. is the Dollar General is approximately 10,000 sq. ft.

He pointed out that the primary topic of discussion in the beginning was related to the medical benefits of marijuana but it then seemed to move heavily into the topic of cultivation. He said the things that were provided in the packet were pictures of 10 parcels up on the Dinsmore Plateau with the limited number of parcels it was going to be broken down into; the pictures provided by staff showed 10,000 sq. ft. greenhouses on these parcels for a total of 100,000 sq. ft. Based on a conservative number at that time, one 3-month cycle for an indoor grow would easily yield $10 million. Again, that number was not disputed which is one of the issues he has with this.

Mayor Wilson continued by providing his vision and said in the beginning he was very "pro" of the proposed land use ordinance. Somewhere during discussion of the track and trace program, it became clear that this stuff could be diverted. He said as Councilmember Thompson said and as you go back and read the minutes, there are a lot of things that aren't clear and a lot unanswered questions. He stated that his vision for medical marijuana is this: "The stuff the City Council originally looked at included pictures of places that have multi-million dollar state- of-the-art equipment in a processing facility where they would do research, extractions of raw materials for cancer treatment and other medical conditions. The discussion however; deteriorated heavily into cultivation. His vision for Rio Dell is that if we want to truly be serious about medical marijuana, then that's what we go for and it was brought up that it should be done across the river. The biggest number on the sheet at that time was $750,000 as the amount

to be generated by the City annually from manufacturing and to focus around that. Instead we ended up with cultivation back over here on the Dinsmore Plateau and dispensaries and those would only generate $2,500 a year. Also proposed were three dispensaries; does a city of 3,500 need three dispensaries? So what he would like to see is a research facility where people come from everywhere in the world to get research and to get help. When the word "Rio Dell" is said, it is synonymous with cancer; it's when your mother or your father is diagnosed with stage 4 cancer and there is no hope and they ask the question of "where do we go" and the answer is "I heard of a City called Rio Dell; it's somewhere in northern California and one of the most beautiful cities in the country; they heal people." And the people will bring with that, doctors, nurses, and medical people from around the world. This will change the face of Humboldt County and the face of Rio Dell and it won't be a place to question. I don't even know how much we would have to tax because they would bring so much to the city. That's my vision. I'm not a narrow-minded lost guy that doesn't care about this city. I live here and plan for it to be the last place I live. I don't do this because I don't care. Everyone on this City Council that serves this community is servants and does it for nothing. If anything, I need to have a drug test to see why I do it.

We have spent more hours as a council and our own time and anybody he talks to say they are tired of talking about this. It's a big deal but the city is a big deal to me. That's why I do this. I know this council and believe in the future and if this is a viable option for this community, to bring medical research in then I'll support it and talk to anybody who is against it because that's what he would really like to see happen."

Councilmember Garnes commented that she said to staff and said to the Mayor that she was willing to compromise on anything in order to try and push something forward that would be positive for the city. She said when she made the motion at the last meeting there was no alternative before it; no compromise to compromise. She added that she appreciates and supports the Mayor's vision but that vision was never put out there as a compromise so there was no give and take to even consider. She commented that she too is an open-minded person and willing to compromise her position for the betterment of the city. She said she is sure everyone is willing to compromise but that compromise was just never put out there.

Mayor Wilson stated that staff knew his position to restrict everything on the other side of the river and at no point did staff approach him and ask him what it would take to get him on board. He commented that it is not hard to figure him out; he's pretty clear.

Councilmember Garnes responded that it doesn't matter if staff didn't ask what it would take and sometimes the council members just need to put it out there. She pointed out that staff's recommendations are just that and can be amended.

Mayor Pro Tem Johnson said he would like staff to agenize an item for the July 19, 2016 meeting to revisit the cannabis land use ordinance with the area north of the river considered. He commented that he knows at various times, at least four of the council members have supported that option.

City Manager Knopp asked each council member to voice their decision on whether to bring the ordinance back on July 19th.

City Attorney Gans clarified that the Council can take no action on that item tonight but by consensus of the council, can direct staff to return with the item on a subsequent agenda.

Councilmember Thompson reminded the council that at a prior meeting he had made a motion to amend the ordinance to restrict cannabis related activities across the river and received no second so the motion died. He said at that time he was in support and felt that's what needed to happen and his motion referred to a specific strip of land but has since reanalyzed his position and is no longer in support of using that strip of land.

Mayor Wilson called for a consensus of the Council to bring the ordinance back for consideration on July 19, 2016. The consensus was as follows:

- Mayor Pro Tem Johnson - Yes
- Councilmember Thompson - Yes
- Councilmember Garnes - Yes
- Councilmember Marks - No
- Mayor Wilson - No

City Manager Knopp stated that with three council members requesting this item return on July 19th, staff will draft a staff report and bring it back to council at that meeting.

Mayor Wilson called for a 5 minute recess at this time, 8:03 p.m.

The meeting reconvened at 8:10 p.m.

Mayor Wilson called for public comment related only to the proposed cannabis tax measure.

Sharon Wolff addressed the Council and expressed support for putting the decision in the hands of the voters. She said she works at the polls and really feels this issue needs to put to the people for a vote. She said if they say no then fine but they had their voice. She added that this lends to a fairly unique opportunity with the presidential election and major state ballot measures and may see a 50% or better voter turnout. She said you're going to have people coming out to vote; that way they will have their say. Also, not everyone enjoys coming to council meetings quite as much as she does. She added that you've got people's input, got their buy-in, and got their cooperation, or got them saying no. She said this is going to be a major change to Rio Dell so people need to have a say in it. She agreed that other issues not quite as important as this need not go to a vote of the people; for something like this it definitely should. With a major election coming up in November, the council has the perfect opportunity to put this before the voters and let them decide. She pointed out that Rio Dell is going to be surrounded as the County is approving an ordinance and the Dinsmore Plateau is only half in the city's jurisdiction. As such there will be open field cultivation on the Plateau anyway. Either the city can be surrounded by all of this and get all of the bad effects as it is now or try and regulate it, give it the necessary framework and go from there. Again, let the people make that educated guess. Also, it's already in Rio Dell. There are a number of "unemployed" people driving around in new trucks.

She continued by saying that she would like to see something done in Rio Dell because if something is not done to address the city's deficit in this manner or some other way, we might as well stop being a city and go to a community

services district (CSD) which is what it will take if it can't support itself as a city. Her main point was to let the people vote.

Alonzo Bradford expressed support for the cannabis tax measure and agreed that people should have a chance to vote. He said if the council is open enough to take another look at the cannabis land use ordinance the tax will help. He said before the council can do anything, the land use ordinance should be taken care of because that way they will know exactly how to set the tax based on the land available for the activities.

David Bridge began by thanking the Council for their time realizing they give it freely and it really is a service to the community.

He reminded the council that he had mentioned a company called Alliance Financial Services and said they do business transfers so there are no large amounts of cash changing hands. He commented that staff had contacted Bio Track instead who has a terrible record. Also, in terms of how tax revenue was estimated he said the Washington data is available online at 502data.com and they post the revenue for each of the dispensaries, producers, etc. so from that information, the city can make their own assumptions. He encouraged the council to visit the site for information.

He also said if the HCAOG transportation ballot measure is going to pass, there needs to be a large voter turnout. Putting the cannabis tax on the ballot will help to do that and hopefully achieve the 2/3 voter approval.

Sara Westbrook again stated her opposition to the Cannabis Club of Rio Dell and said everyone is focused on money and not really thinking about our rivers and how much water it takes to grow cannabis. She questioned what David Bridge has brought to the city of Eureka.

Jennifer Henderson stated she was in favor of the proposed cannabis tax and said she is happy to participate in the process of supporting local government and making things better.

With regard to water use, she said she has a degree in botany and cannabis is one of the crops that actually uses the least amount of water. Also, a lot of

growers now use drip irrigation, solar power, or wind power; pretty much going back to the way Amish farmers did by not using a lot of power or not abusing the land they grow on. She said that is something we can feel comfortable with; the grassroots movement among the local people, not those who swoop in from other places who don't care and leave a lot of chemicals around and destroy the environment.

She said she would also like to thank the council for their efforts in developing the area across the river as it would be a really good thing for everybody. She noted that she is a cancer survivor and in 1996 she was diagnosed and basically sent home to die. She never got high from her medicine and used pure raw cannabis that was not activated. She said she was grateful for that medicine because she is now cancer free and has been for 20 years. She said our bodies have a cannabinoid system that God put there and this is not the chemical industry saying that we should have this receptor from this plant. She said THC is just one cannabinoid and if you get rid of that, you still have a highly medicinal plant and that's what a research facility can do.

Adam Diaz began by stating that he has been sitting here trying to think of what he is going to say and said he knows every one of the council members personally; Councilmember Garnes more recently. He commended the council for standing up for what they believe and that he doesn't agree with everything that was said but also doesn't agree with everything said in this room but that doesn't matter. He said what matters is what he just figured out with his new friend here and that is that each council member basically represents 350 citizens. He commented that he has worked hard with Councilmember Marks and to think that he may be one of the people that Councilmember Marks doesn't respect because he is in favor of medical marijuana, the distribution and regulation of it saddens him because he told him outright what his position was on the issue. To think that a handful of people could influence the decision when each council member represents roughly 350 people each is the reason he doesn't agree with a lot of what has been said here. He said you don't like the ordinance.....got it; a lot people don't like the ordinance. He said it sounds like, if he heard the City Manager correctly that there is a limited time to jump on the band wagon and pass an ordinance for a proposed tax that can literally do no harm to this community because the council would have plenty of time to work on the land use ordinance. He said it seems pretty simple to him.

Larry Arsenault addressed the council and said Alice (Millington) was ill and couldn't be present but wanted him to say something on her behalf which is that she felt the ordinance was set up to fail.

He said if you have a business, you have to make a profit and what he personally thinks is going to happen is it's going to be big at first then it's going to collapse, prices are going to go down, it will cost too much to produce so cannabis people will leave, then things will level off.

As far as supporting it, he said as one wise man said "the only thing that is constant is change." Either you take control of change and look at it square in the eye and deal with it, or ignore it and let it run over you. He commented that he keeps hearing the words "crime" and "drugs" and that it will ruin Rio Dell which he feels comes from fear and ignorance. He said he doesn't see that happening and that Arcata hasn't fallen down around it and they have some problems but they are dealing with them. He doesn't see why Rio Dell can't deal with it as long as the as the industry is treated professionally like real businesses.

He commented that the council needs to have clear minds and open minds no matter which way they vote.

There being no further public comment, the public comment period was closed.

Motion was made by Johnson/Garnes to adopt Resolution No. 1303-2016 submitting to the voters the proposed Cannabis Taxation Ordinance No. 346-2016 requesting the Board of Supervisors to authorize consolidation of said election with the General Election and directing the City Clerk to take all actions required by law to prepare for and conduct the election.

City Attorney Gans stated that at a previous meeting Councilmember Thompson asked that his office scrutinize some of the exceptions to the gross receipts language in the ordinance. His recommendation was to delete from the ordinance, Section 5.40.090 (I, j and k). In summary, these exceptions are sales between affiliated entities and businesses and the concern is with the state there are so many license categories they anticipate issuing licenses for that this

language does potentially create some unexpected consequences. He said he thinks the ordinance would be better served without those references.

Mayor Pro Tem Johnson amended his motion to include the deletion of section 5.40.090(l, j, and k) as recommended. Councilmember Garnes seconded the amended motion. The motion failed 3-2 with Councilmembers Marks and Thompson and Mayor Wilson dissenting.

Mayor Wilson clarified the reason for voting no and said the reason is that again tonight it was illustrated where the city council acquired information that is completely different than what they were told through the process stating that the number on the estimated revenue appears that estimates were not done during the process and he thinks that that staff and the complexity of this issue is something that if it gets into the hands of the people out there, it will create more problems than the council can correct. He said the council does have an opportunity to revisit this at the July 19, 2016 regular meeting.

City Manager Knopp clarified that what is scheduled to be revisited is the cannabis land use ordinance and not the tax measure.

Mayor Wilson commented that it is his understanding that the tax measure issue could be brought back and voted on at a special election.

City Attorney Gans stated as a point of clarification that the council can actually submit either the tax and/or the land use ordinance but the tax has to ultimately be submitted to the electorate. The council has the option of also submitting the land use ordinance itself after properly vetting the language to the voters for determination. He noted that it would not be able to be part of the November election due to timing however; there could be called a special election at the expense of the city. There is that as well as some pragmatic issues such as voter turnout but it is an option the council could consider.

Councilmember Thompson said through this whole process it seems like the council has been forced down a tunnel and pushed and pushed. He said there are terms in the ordinance that he questioned and when he did was told they didn't matter. He said they matter to him because there are things than can and

will be challenged. He commented that when it's all said and done, the ordinance needs to be clear so after this city manager leaves, no one can say that the ordinance was poorly written.

He added that he doesn't believe the revenue numbers as estimated and said there is expense to the City as well as a tremendous expense to families with kids who are going to be in trouble and the Council hasn't even addressed how to make it so the police department can get involved with the school stating that a minimum or $100,000 to $200,000 is needed to go to the school to help deal with the issues caused by the marijuana industry. He said the council needs to take a step back and see if the council can come together some way without being forced because of deadlines.

Mayor Pro Tem Johnson asked if he understood Councilmember Thompson correctly that he wants to revisit the taxation issue in the future.

Councilmember Thompson clarified that if and when an ordinance is adopted, the tax issue will have to be addressed and the ordinance may end up going to the voters for a decision.

City Attorney Gans reviewed a couple of important procedural points and said there is in place some time constraints created by the state in that the MMRSLA requires local jurisdictions to put in place their ordinances however; this deadline date is constantly moving so staff will provide the Council an update on where the state stands as far as local jurisdiction so the city can be sure to be compliant with the state law. Also, bear in mind that any land use ordinance, if adopted can be amended to adapt to meet with changing circumstances without voter approval; it's only the tax measure that requires voter approval.

Councilmember Thompson said he believes the current 215 ordinance the city has in place covers the city for compliance with the deadline requirement.

City Attorney Gans explained that some jurisdictions adopted an actual ban on any cannabis use, sales or cultivation etc. and that is clear under state law and reserves jurisdictions to enact legislation at a later time but the 215 in and of itself is a different component than the new state law that local entities are working to

adopt their own ordinances on to be in compliance. He said he would have to do some additional research on the law and report back.

City Attorney Gans left the meeting at this time, 8:35 p.m.

REPORTS/STAFF COMMUNICATIONS

City Manager Knopp distributed copies of the *Eureka-to-Scotia Trail Corridor Assessment* prepared for Humboldt County and HCAOG and said the report provides a preliminary evaluation of potential trail connections from the Eureka Waterfront Trail southward along the east side of Humboldt Bay into the Eel River Valley. He said the idea is to identify conceptual alignments for a network of rail-with-trail projects, alternative separated trails, and on-street bikeway facilities to serve the communities from Eureka to Scotia. He said buildout of the project is expected to occur over the next 20 years or so as more funding becomes available.

City Manager Knopp also reported staff will have an item on the July 19th agenda related to update of the wells project.

Finance Director Woodcox said she had nothing to report at this time.

Chief of Police Hill reminded citizens of an upcoming animal shot clinic on July 30th at City Hall and encouraged everyone to come out and get their pets vaccinated.

He also asked if members of the Nuisance Hearing Committee would be available to meet on Thursday, July 7th at 4:00 p.m. to discuss a pending issue and asked that they let him know.

COUNCIL REPORTS/COMMUNICATIONS

Mayor Pro Tem Johnson commended staff on the latest City Newsletter and noted that the Chief's message regarding the shot clinic was included in the newsletter with all of the information.

ADJOURNMENT

Motion was made by Johnson/Garnes to adjourn the meeting 8:40 p.m. to the July 19, 2016 regular meeting.

_____
Frank Wilson, Mayor

Attest:

_____
Karen Dunham, City Clerk

675 Wildwood Avenue
Rio Dell, CA 95562
(707) 764-3532
(707) 764-5480 (fax)
E-mail: cm@riodellcity.com

CITY OF RIO DELL
STAFF REPORT
CITY COUNCIL AGENDA
July 19, 2016

TO: Mayor and Members of the City Council

THROUGH: Kyle Knopp, City Manager

FROM: Brooke Woodcox, Finance Director

DATE: July 19, 2016

SUBJECT: Resolution 1304-2016 Confirmation of the FY 2016/17 Tax Assessment for financing of the 1978 Sewer Assessment Bonds

RECOMMENDATION

Approve Resolution 1304-2016 Confirmation of the FY 2016/17 Tax Assessment for financing of the 1978 Sewer Assessment Bonds.

BACKGROUND AND DISCUSSION

Each year the City submits the sewer assessment charges by parcel to the County Auditor-Controller's office for inclusion on the current year property tax bill. Prior to submission, a resolution of the governing body is required for authorization for the levying of current year taxes/assessments. The 1978 Sewer Assessment Bonds are scheduled for full repayment in fiscal year 2017-2018.

The City's Fiscal Year 2015-2016 assessment to be levied totals $26,518.13.

Attachment: Sewer Assessment by Parcel
Resolution 1304-2016 1978 Sewer Assessment Bonds

RESOLUTION NO. 1304-2016
A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF RIO DELL
CONFIRMATION OF FISCAL YEAR 2016-2017 TAX ASSESSMENT
1978 SEWER ASSESMENT BONDS

WHEREAS, the City of Rio Dell City Council levied a 40 year tax assessment to fund the sewer infrastructure improvement project of 1978; and

NOW THEREFORE BE IT RESOLVED, that the City of Rio Dell City Council does hereby authorize the Humboldt County Auditor Controllers Office to place this assessment in the amount of $26,518.13, on the rolls effective July 1, 2016.

PASSED AND ADOPTED by the City of Rio Dell on this 19th day of July 2016.

Ayes:
Noes:
Abstain:
Absent:

_____
Frank Wilson, Mayor

ATTEST:

_____
Karen Dunham, City Clerk

Sewer Assessment District #1

APN		FY 2016/17
052053026000	52800	60.63
052011007000	52800	30.32
052051007000	52800	30.32
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Rio Dell City Hall
675 Wildwood Avenue
Rio Dell, CA 95562
(707) 764-3532
riodellcity.com

July 19, 2016

TO: Rio Dell City Council

FROM: Kyle Knopp, City Manager

SUBJECT: Discussion and Possible Action Authorizing the Mayor to Sign Agreement with County of Humboldt for Measure Z Funding

IT IS RECOMMENDED THAT THE CITY COUNCIL:

Authorize the Mayor to sign the agreement.

BACKGROUND AND DISCUSSION

On Tuesday, February 16, 2016 the City Council reviewed and approved staff's recommendation to move forward with an application for FY 2016-20176 Measure Z funding. On Friday February 20, 2016 the City Manager submitted a grant application to the Citizen's Advisory Committee on Measure Z Expenditures. Two requests were made, one for $33,649 for continued clerical support in the Police Department and an additional $73,325 for a Community Services Officer (CSO) position.

The Measure Z Oversight Committee ultimately forwarded a list of recommendations to the Board of Supervisors that was significantly overcommitted and did not include Rio Dell's requests among a category of funded requests. On April 19, 2016 the City Council signed a letter directly addressing the County Board of Supervisors asking for their support of continued funding of the clerical position while withdrawing the request for the CSO position.

On Tuesday June 28, 2016 the Board of Supervisors adopted Humboldt County's FY 2016-2017 budget that included funding of $33,649 for a clerical position in the Police Department. The attached agreement obligates the City to provide clerical support to the police department, and describes reporting requirements the City will need to perform throughout the year. In exchange, the County agrees to reimburse the city up to the prior described amount. Attached is a contract for consideration of the Council.

Measure Z was a countywide .5% transactions and use (sales) tax that was written as a general tax and was promoted as a tax for public safety. The measure passed on November 4, 2014.

///

RECEIVED
FEB 19 2016
CAO

CITIZENS' ADVISORY COMMITTEE ON MEASURE Z EXPENDITURES

(Advisory Committee will make recommendations to the Humboldt County Board of Supervisors as to expenditure of funds derived from Measure Z)

APPLICATION FOR FUNDING

Agency Name: **City of Rio Dell**

Mailing Address: 675 Wildwood Avenue, Rio Dell, California 95562

Contact Person: Kyle Knopp | Title: City Manager

Telephone: 707.764.3532 | E-mail address: kknopp@riodellcity.com

1. AMOUNT OF MEASURE Z FUNDING REQUESTED FOR FY 2016-2017: $33,649
2. ENTITY TYPE – Please check appropriate box.
   a. Humboldt County Department ☐
   b. Contract Service Provider to Humboldt County ☐
   c. Local Government Entity ■
   d. Private Service Provider ☐
   e. Non-Profit Service Provider ☐
   f. Other ☐
3. *Please provide a brief description of the proposal for which you are seeking funding.*

The City of Rio Dell Proposes the continued funding of a part-time clerical support position in the Police Department for 28 hours a week to provide support for law enforcement services. This item was funded by Measure Z during the 2015-16 grant cycle. This grant allows our officers to spend more time responding to calls for service and be on active patrol, and is the only source of funding for clerical support. The position also allows for police department headquarters to remain open when officers are out on patrol. Currently, the Rio Dell Police Department is staffed by five (5) full-time sworn officers and one (1) part-time clerical assistant (funded through Measure Z). The position also enables a consistent flow of paperwork on nuisance and code enforcement issues, helping to clean up the community and prevent neighborly discord from becoming a larger issue for sworn law enforcement.

4. Measure Z funding is scheduled to "sunset" in 2020. How are you developing a plan for sustainability, including diversification of funding sources, in order for your proposal to carry on without reliance on future Measure Z funds?

The City of Rio Dell is looking to expand and diversify its tax base over the next five years. Central to this objective is the City's work to restructure its code enforcement program that is making major headway in cleaning up the town and addressing long-standing blight that is an obstacle to development. Work is underway to develop and emphasize economic development activities including micro-enterprise assistance and infrastructure related activities that enhance development potential that benefit both the City and the region as a whole. Economic development within the City is a crucial part of working towards sustainability, and public safety is the cornerstone to that development.

5. If this request is for the continuation, or expansion, of an existing program/service, what is the current source of funding for that program/service?

Clerical support for the Police Department for fiscal year 2015-2016 has been provided through Measure Z funding. Without Measure Z the Police Department wouldn't have the supportive assistance necessary to provide the enhanced customer and administrative services that are currently offered.

6. If you are awarded Measure Z funds, how will you use them to leverage additional grants, contributions, or community support?

Community support comes from the community's reliance on our Police Department to quickly respond to public safety calls and concerns. The Police Records Specialist I is available to immediately respond and refer community members and victims of crime to services and can make direct contact with sworn personnel. Currently, when officers are not present at the Police Department headquarters, victims of crime must us a call box to summon assistance. Measure Z funds would help mitigate that experience.

7. Will this proposal require new or expanded activity on the part of another entity to be fully functional and effective? If so, please describe.

No, this proposal does not require any activity on the part of another entity. It is believed the additional support to our officers will ultimately lower levels of crime in the City and subsequently lower the level of activity required of allied agencies and partners.

ATTACHMENTS – Please include the following with your application

Proposal Narrative: Brief description of your request for Measure Z funds – Please explain how it is an essential service or for public safety. (One page maximum)

Prior Year Results: If you request is a continuation of a program funded with Measure Z in FY 2015-2016, please provide the results of implementation. (One page maximum)

Program Budget: Use budget form provided (ATTACHED)

I declare under penalty of perjury under the laws of the State of California that the above statements and all attachments are true and correct.

DATE: 2/19/2016 SIGNATURE: _____

SUBMIT THIS APPLICATION TO:

Humboldt County Citizens' Advisory Committee on Measure Z Expenditures
c/o County Administrative Office
825 5th Street, Suite 111
Eureka, California 95501-1153

675 Wildwood Avenue
Rio Dell, CA 95562
(707) 764-3532
(707) 764-5480 (fax)
E-mail: cm@riodellcity.com

Humboldt County Citizens' Advisory Committee on Measure Z Expenditures
c/o County Administrative Office
825 5th Street, Suite 111
Eureka, California 95501-1153

Dear Members of the Advisory Committee,

The City of Rio Dell respectfully submits this proposal narrative for your consideration for Measure Z funding. The two (2) proposals are connected to two very important objectives for the City of Rio Dell: Enhanced public safety services and economic development. We believe that public safety and economic development go hand in hand in building and maintaining a safe, healthy, and an economically sound community.

Public safety has already been greatly enhanced with the addition of an administrative support staff person in the Police Department through Measure Z funding for FY 2015-2016. Moreover, a Community Services Officer is a complementary addition to our Police Department because the goal of making our streets safer becomes more realistic when sworn officers are relieved of the duties related to animal control, code enforcement, and administrative-type tasks. If funding is granted for these two positions officers will be able to focus on the duties that their positions are intended: public safety and lessening the deleterious effects of crime. Furthermore, the addition of a CSO provides a strong resource in working towards the City's long-term goal of becoming an economically sustainable through continued perseverance of our vision of building a safe, healthy, and economically viable City.

The City needs your help in solidifying the vision of creating a safer community and building economic sustainability. These objectives are the sole purpose for the City's proposals that are as follows:

1. $33,649 for a part-time Police Records Specialist I that will free up the valuable time of the City's five sworn officers
2. $73,325 for a full-time, benefitted Community Services Officer that will free up time that sworn officers spend on animal control, code enforcement activities, and administrative-type tasks.

We believe these two requests ($106,974 combined) to be measured and responsible. These two positions to our Police Department is in direct line with the overall goals that Measure Z was built: "To provide the funds necessary for expanding patrols, maintaining emergency response times, and making sure calls about violent or property crimes are responded to promptly." Additionally, the proposals have an added value of economic sustainability that can serve as a means to continue to support these two positions when Measure Z sunsets in 2020.

We appreciate your support on these requests, and believe them to be in line with the vision being set for Humboldt County through the use of Measure Z funds.

Sincerely,

Kyle Knopp
City Manager, City of Rio Dell

Rio Dell City Hall
675 Wildwood Avenue
Rio Dell, CA 95562
(707) 764-3532
riodellcity.com

February 19, 2016

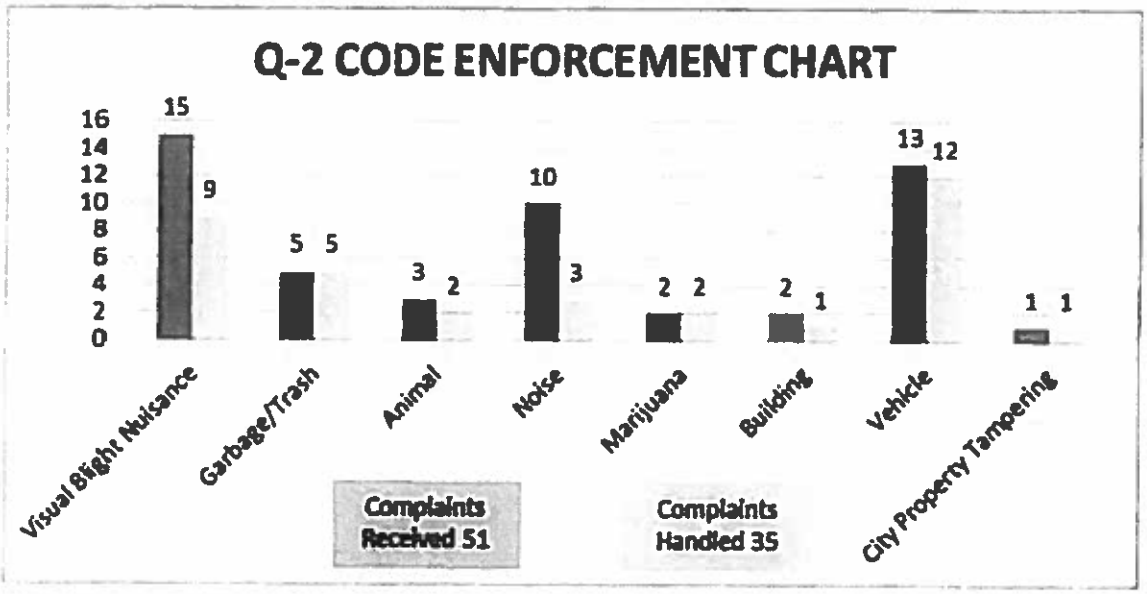
TO: Humboldt County Citizens' Advisory Committee on Measure Z Expenditures

FROM: Kyle Knopp, City Manager

SUBJECT: **Prior Year Results:** Measure Z and the City of Rio Dell's part-time clerical support position in the Police Department.

Available data covers the period from July 1, 2015 to December 31, 2015.

In terms of code enforcement, Measure Z funds logged 51 complaints, resulting in 21 site visits, 28 letters issued, and 35 complaints brought to resolution. Additionally, as of December 31, 2015 another 16 cases were in progress towards resolution. None of this would have happened without Measure Z.



In terms of clerical support provided to the police department, Measure Z funded over 576 hours of staff time (between July 1, 2015 and December 31, 2015) to keep the Police Department doors open, respond to business calls, and process records and miscellaneous paperwork items. These services freed up valuable Law Enforcement Officer time to deal with higher level criminal matters. Without Measure Z funding, the Police Department would have no clerical support.
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Budget

CITY OF RIO DELL POLICE DEPARTMENT

Date: 2/18/14

Descriptions	Amounts	Approved Budget	Remaining Balance
A. Personnel Costs			
Title: Police Records Specilist I Salary and Benefits Calculation: 1,456 hours x ($17.67 max hourly wage + $3.29 add'l payroll costs) Duties Description: Performs a variety of general clerical and customer service duties involved in the maintenance, processing, and distribution of police records; serves as call-taker and/or assists in dispatching units, performs directly related work as required.	30,517.76		(30,517.76)
Title: Salary and Benefits Calculation: Duties Description:			0.00
Title: Salary and Benefits Calculation: Duties Description:			0
Title: Salary and Benefits Calculation: Duties Description:			0
Total Personnel:	30,517.76	0.00	(30,517.76)
B. Operational Costs (Rent, Utilities, Phones, etc.)			
Title: Operational costs Description: Variable operations services and supplies related to the addition of a part-time Police Records Specialist	1,833.00		(1,833.00)
Title: Description:			0.00
Title: Description:			
Title: Description:			
Total Operating Costs:	1,833.00	0	(1,833.00)
C. Consumables/Supplies (Supplies and Consumables should be separate)			
Title: Description:			
Title: Description:			
Title: Description:			
Title: Police Records Technician Description:			

Budget

CITY OF RIO DELL POLICE DEPARTMENT

Date: 2/19/16

Descriptions	Amounts	Approved Budget	Remaining Balance
Total Consumable/Supplies:	0	0	0
D. Transportation/Travel (Local and Out-of-County should be separate)			
Title: Out of County Travel for training			
Description: Travel costs related to training for Police Records Specialist I	1,498.00		(1,498.00)
Title:			
Description:			0.00
Title:			
Description:			
Total Transportation/Travel Costs:	1,498.00	0	(1,498.00)
E. Fixed Assets			
Title:			
Description:			
Title:			
Description:			
Total Other Costs:	0	0	0
Total:	33,648.76		

675 Wildwood Avenue
Rio Dell, CA 95562
(707) 764-3532
(707) 764-5480 (fax)
E-mail: cm@riodellcity.com

April 19, 2016

Humboldt County Board of Supervisors
825 5th Street, Room 111
Eureka, CA 95501

Honorable Members of the Board of Supervisors,

Last year the City of Rio Dell was honored to be a recipient of Measure Z funds. These funds were dedicated to clerical support for our Police Department which enabled our officers to remain in the field where they belong. The $35,569 that the Board made available to the City for this position allowed us to answer more public safety calls, enforce more nuisance complaints and assist our officers with time-consuming paperwork. The Measure Z funds tremendously benefitted both this community and the County and we thank you for your support.

Through the support of Measure Z, by the end of the fiscal year, we project that over 100 nuisance complaints will have been dealt with appropriately. These complaints encompass numerous health and safety issues including drug activity, property tampering, abandoned vehicles, blight associated with garbage and other dangerous situations. The result: countless hours of officer time being more focused on the safety of our community and our service levels for victims of crime were greatly improved. With this in mind we call upon you again in this New Year to help us continue our quest for a safe community and would again appreciate your support.

Following the March 30, 2016 meeting of the Measure Z Advisory Committee, the Committee forwarded recommendations to your administrative office that placed our part-time clerical support position as a third tier priority on a list where needs exceed the funds available to distribute. If the Board follows the Measure Z Advisory Committee's recommendations, our part-time clerical position would almost certainly be defunded. Thus, we are asking you to make an exception in this case and continue to fund the Police Department's part-time clerical position as it has made such an important and positive difference in the City of Rio Dell.

We understand the difficult choices you have to make and that the many needs throughout the county exceed the available revenue. Therefore, we withdraw our request for the Community Services Officer (CSO) position that we added to this year's request and respectfully ask that you prioritize the continued funding of our part-time clerical support position at $33,649. We believe this request is measured and responsible considering Measure Z revenues generated in Rio Dell total approximately $80,000 annually.

Thank you for your consideration of this request.

Frank Wilson
Mayor

Gordon Johnson
Vice Mayor

Jack Thompson
Councilmember

Debra Garnes
Councilmember

Tim Marks
Councilmember

CC: Humboldt County Sheriff, Measure Z Advisory Committee, CAO, Clerk of the Board

MEMORANDUM OF UNDERSTANDING
BETWEEN
COUNTY OF HUMBOLDT
AND
CITY OF RIO DELL
FOR FISCAL YEAR 2016-2017

This Memorandum of Understanding ("MOU"), entered into this ____ day of _____, 2016, by and between the County of Humboldt, a political subdivision of the State of California, hereinafter referred to as "COUNTY," and the City of Rio Dell, a municipal corporation, hereinafter referred to as "CITY," is made upon the following considerations:

WHEREAS, California Government Code Section 26227 provides that the board of supervisors of any county may appropriate and expend money from the county's general fund to finance programs deemed to be necessary to meet the social needs of the population of the county, including, but not limited to, the areas of health, law enforcement and public safety; and

WHEREAS, COUNTY placed a one-half (.5) cent local sales and use tax measure, known as "Measure Z," on the November 2014 ballot to maintain and improve essential services; and

WHEREAS, Measure Z was passed by the voters of Humboldt County on November 4, 2014 and became operative on April 1, 2015; and

WHEREAS, due to the passage of Measure Z, COUNTY has additional funding to maintain and improve essential services, including, without limitation: law enforcement services; emergency response services; illegal marijuana cultivation enforcement and prevention; child abuse enforcement and prevention; crime investigation and prosecution; substance abuse rehabilitation; mental health treatment; rural fire protection, road repairs; and other necessary services relating to the areas of health, law enforcement and public safety; and

WHEREAS, COUNTY created a nine (9) member Citizens Advisory Committee to review Measure Z funding applications and make recommendations to the Humboldt County Board of Supervisors; and

WHEREAS, on February 19, 2016, CITY submitted a Measure Z application to the Citizens' Advisory Committee requesting an allocation in the amount of Thirty Three Thousand Six Hundred Forty-Nine Dollars ($33,649.00) for the purpose of assigning an additional clerical position to the Rio Dell Police Department to support various types of law enforcement, nuisance abatement and code enforcement activities, which is attached hereto as Exhibit A – Application for Measure Z Funding – and incorporated herein by reference; and

WHEREAS, on June 28, 2016, the Humboldt County Board of Supervisors approved the Measure Z application submitted by CITY in the amount of Thirty Three Thousand Six Hundred Forty-Nine Dollars ($33,649.00) through June 30, 2017; and

WHEREAS, COUNTY and CITY desire to enter into an agreement which sets forth each party's rights and responsibilities regarding the expenditure of Measure Z funds allocated to CITY.

NOW THEREFORE, in consideration of the foregoing, and of the mutual promises contained herein, the parties hereto agree as follows:

1. COUNTY OBLIGATIONS:

COUNTY will provide CITY an amount not to exceed Thirty Three Thousand Six Hundred Forty-Nine Dollars ($33,649.00) for the purpose of assigning an additional clerical position to the Rio Dell Police Department to support various types of law enforcement, nuisance abatement and code enforcement activities.

2. CITY OBLIGATIONS:

A. General Requirements. CITY will assign an additional clerical support position to the Rio Dell police department to aide various types of law enforcement, nuisance abatement and code enforcement activities. The newly assigned clerical position shall include approximately twenty-four (24) hours of additional clerical support services per week that may be divided amongst different CITY personnel and job classifications.

B. Quarterly and Final Reports. CITY will provide quarterly and final reports to COUNTY as set forth in Exhibit B – Quarterly and Final Summary Reports, which is attached hereto and incorporated herein by reference. Any and all quarterly and final reports required hereunder shall be prepared using the COUNTY's standard Measure Z report form, which is attached hereto as Exhibit C – Quarterly and Final Report Form and incorporated herein by reference.

C. Recognition of Measure Z Funding. CITY shall cooperate with COUNTY efforts to recognize Measure Z funding. Such recognition may take the form of press releases, photos and adhesives to equipment.

3. TERM:

This MOU shall begin on July 1, 2016 shall remain in full force and effect until June 30, 2017, unless sooner terminated as provided herein.

4. TERMINATION:

A. Breach of Contract. If, in the opinion of COUNTY, CITY fails to adequately fulfill its obligations hereunder within the time limits specified herein, or otherwise fails to comply with the terms of this MOU, or violates any ordinance, regulation, or other law applicable to its performance herein, COUNTY may terminate this MOU immediately, upon notice.

B. Without Cause. COUNTY may terminate this MOU without cause upon thirty (30) days advance written notice to CITY. Such notice shall state the effective date of the termination.

C. Insufficient Funding. COUNTY's obligations under this MOU are contingent upon the availability of local funding resulting from the sales and use tax established by Measure Z. In the event such funding is reduced or eliminated, COUNTY shall, at its sole discretion, determine whether this MOU shall be terminated. COUNTY shall provide CITY seven (7) days advance written notice of its intent to terminate this MOU due to insufficient funding.

D. Compensation Upon Termination. In the event this MOU is terminated, CITY shall be entitled to compensation for uncompensated clerical support services provided hereunder through and including the effective date of such termination. However, this provision shall not limit or reduce any damages owed to COUNTY due to a breach of this MOU by CITY.

5. COMPENSATION:

A. Maximum Amount Payable. The maximum amount payable by COUNTY for the clerical support services rendered, and costs and expenses incurred, pursuant to the terms and conditions of this MOU is Thirty Three Thousand Six Hundred and Forty-Nine Dollars ($33,649.00). CITY agrees to provide the clerical support position as set forth in this MOU for an amount not to exceed such maximum dollar amount. However, if the allocation of local funding resulting from the sales and use tax established by Measure Z is reduced or eliminated, COUNTY may, by amendment, reduce the maximum amount payable for clerical support services provided hereunder, or terminate this MOU as provided herein.

B. Schedule of Rates. CITY shall set forth the specific rates and costs applicable to this MOU using the COUNTY's standard Measure Z budget form, which is attached hereto as Exhibit D – Schedule of Rates and incorporated herein by reference.

C. Additional Services. Any additional services not otherwise provided for herein shall not be provided by CITY, or compensated by COUNTY, without written authorization by COUNTY. All unauthorized costs and expenses incurred above the maximum payable amount set forth herein shall be the responsibility of CITY. CITY shall notify COUNTY, in writing, at least six (6) weeks prior to the date upon which CITY estimates that the maximum payable amount will be reached.

6. PAYMENT:

CITY shall submit to COUNTY quarterly invoices itemizing all clerical support services rendered, and costs and expenses incurred, pursuant to the terms and conditions of this MOU. Invoices shall be in the format set forth in Exhibit E – Measure Z Invoice Form, which is attached hereto and incorporated herein by reference. CITY shall submit a final undisputed invoice for payment within thirty (30) days following the expiration or termination date of this MOU. Payment for clerical services rendered, and costs and expenses incurred, pursuant to the terms and conditions of this MOU will be made within thirty (30) days after the receipt of approved invoices. All invoices submitted by CITY shall be sent to COUNTY at the following address:

COUNTY: Humboldt County Administrative Office
Attention: Elishia Hayes, Senior Administrative Analyst
825 Fifth Street, Room 112
Eureka, California 95501

7. NOTICES:

Any and all notices required to be given pursuant to the terms of this MOU shall be in writing and either served personally or sent by certified mail, return receipt requested, to the respective addresses set forth below. Notice shall be effective upon actual receipt or refusal as shown on the receipt obtained pursuant to the foregoing.

COUNTY: Humboldt County Administrative Office
Attention: Amy S. Nilsen, County Administrative Officer.
825 Fifth Street, Room 112
Eureka, California 95501

CITY: City of Rio Dell
Attention: Kyle Knopp, City Manager
675 Wildwood Avenue
Rio Dell, California 95562

8. RECORD RETENTION AND INSPECTION:

A. Maintenance and Preservation of Records. CITY agrees to timely prepare accurate and complete financial, performance and payroll records, documents and other evidence relating to the clerical support services provided hereunder, and to maintain and preserve said records for at least three (3) years from the date of final payment under this MOU, except that if any litigation, claim, negotiation, audit or other action is pending, the records shall be retained until completion and resolution of all issues arising therefrom. The books and records shall be original entry books with a general ledger itemizing all debits and credits for the clerical support services provided pursuant to the terms and conditions of this MOU.

B. Inspection of Records. Pursuant to California Government Code Section 8546.7, all records, documents, conditions and activities of CITY, and its subcontractors, related to the clerical support services provided hereunder, shall be subject to the examination and audit of the California State Auditor and any other duly authorized agents of the State of California for a period of three (3) years after final payment under this MOU. CITY hereby agrees to make all such records available during normal business hours to inspection, audit and reproduction by COUNTY and any duly authorized local, state and/or federal agencies. CITY further agrees to allow interviews of any of its employees who might reasonably have information related to such records by COUNTY and any duly authorized local, state and/or federal agencies. All examinations and audits conducted hereunder shall be strictly confined to those matters connected with the performance of this MOU, including, but not limited to, the costs of administering this MOU.

C. Audit Costs. In the event of an audit exception or exceptions related to the clerical support services provided pursuant to the terms and conditions of this MOU, the party responsible for not meeting the requirements set forth herein shall be responsible for the deficiency and for the cost of such audit. If the allowable expenditures cannot be determined because CITY's documentation is nonexistent or inadequate, according to generally accepted accounting practices, the questionable cost shall be disallowed by COUNTY.

9. MONITORING:

CITY agrees that COUNTY has the right to monitor all activities related to this MOU, including, without limitation, the right to review and monitor CITY's records, programs or procedures, at any time, as well as the overall operation of CITY's programs, in order to ensure compliance with the terms and conditions of this MOU. CITY will cooperate with a corrective action plan, if deficiencies in CITY's records, programs or procedures are identified by COUNTY. However, COUNTY is not responsible, and will not be held accountable, for overseeing or evaluating the adequacy of the results of CITY's performance hereunder.

10. CONFIDENTIAL INFORMATION:

A. Disclosure of Confidential Information. In the performance of this MOU, CITY may receive information that is confidential under local, state or federal law. CITY hereby agrees to protect

all confidential information in conformance with any and all applicable local, state and federal laws, regulations, policies, procedures and standards, including, but not limited to: California Welfare and Institutions Code Sections 827, 5328, 10850 and 14100.2; California Health and Safety Code Sections 1280.15 and 1280.18; the California Information Practices Act of 1977; the California Confidentiality of Medical Information Act ("CMIA"); the United States Health Information Technology for Economic and Clinical Health Act ("HITECH Act"); the United States Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and any current and future implementing regulations promulgated thereunder, including, without limitation, the Federal Privacy Regulations contained in Title 45 of the Code of Federal Regulations ("C.F.R.") Parts 160 and 164, the Federal Security Standards contained in 45 C.F.R. Parts 160, 162 and 164 and the Federal Standards for Electronic Transactions contained in 45 C.F.R. Parts 160 and 162, all as may be amended from time to time.

B. Continuing Compliance with Confidentiality Laws. The parties acknowledge that local, state and federal laws, regulations, and standards pertaining to confidentiality, electronic data security and privacy are rapidly evolving and that amendment of this MOU may be required to ensure compliance with such developments. Each party agrees to promptly enter into negotiations concerning an amendment to this MOU embodying written assurances consistent with the standards and requirements of HIPAA, the HITECH Act, the CMIA and any other applicable local, state and federal laws, regulations or standards.

11. NON-DISCRIMINATION COMPLIANCE:

A. Professional Services and Employment. In connection with the execution of this MOU, CITY, and its subcontractors, shall not unlawfully discriminate in the provision of professional services or against any employee or applicant for employment because of race, religion or religious creed, color, age (over forty (40) years of age), sex (including gender identity and expression, pregnancy, childbirth and related medical conditions), sexual orientation (including heterosexuality, homosexuality and bisexuality), national origin, ancestry, marital status, medical condition (including cancer and genetic characteristics), mental or physical disability (including HIV status and AIDS), political affiliation, military service, denial of family care leave or any other classifications protected by local, state or federal laws or regulations. Nothing herein shall be construed to require employment of unqualified persons.

B. Compliance with Anti-Discrimination Laws. CITY further assures that it, and its subcontractors, will abide by the applicable provisions of: Title VI and Title VII of the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; the Food Stamp Act of 1977; Title II of the Americans with Disabilities Act of 1990; the California Fair Employment and Housing Act; California Civil Code Sections 51 et, seq.; California Government Code Sections 4450, et seq.; California Welfare and Institutions Code Section 10000; Division 21 of the California Department of Social Services Manual of Policies and Procedures; United States Executive Order 11246, as amended and supplemented by United States Order 11375 and 41 C.F.R. Part 60; and any other applicable local, state and/or federal laws and regulations, all as may be amended from time to time. The applicable regulations of the California Fair Employment and Housing Commission implementing California Government Code Section 12990, set forth in Chapter 5, Division 4 of Title 2 of the California Code of Regulations are incorporated into this MOU by reference and made a part hereof as if set forth in full.

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12. NUCLEAR FREE HUMBOLDT COUNTY ORDINANCE COMPLIANCE:

CITY certifies by its signature below that it is not a Nuclear Weapons Contractor, in that CITY is not knowingly or intentionally engaged in the research, development, production or testing of nuclear warheads, nuclear weapons systems or nuclear weapons components as defined by the Nuclear Free Humboldt County Ordinance. CITY agrees to notify COUNTY immediately if it becomes a Nuclear Weapons Contractor as defined above. COUNTY may immediately terminate this MOU if it determines that the foregoing certification is false or if CITY subsequently becomes a Nuclear Weapons Contractor.

13. INDEMNIFICATION:

A. Hold Harmless, Defense and Indemnification. CITY shall hold harmless, defend and indemnify COUNTY and its agents, officers, officials, employees and volunteers from and against any and all claims, demands, losses, damages, liabilities, expenses and costs of any kind or nature, including, without limitation, attorney's fees and other costs of litigation, arising out of, or in connection with, CITY's negligent performance of, or failure to comply with, any of the duties and/or obligations contained herein, except such loss or damage which was caused by the sole negligence or willful misconduct of COUNTY.

B. Effect of Insurance. Acceptance of the insurance required by this MOU, shall not relieve CITY from liability under this provision. This provision shall apply to all claims for damages related to the clerical support services performed by CITY pursuant to the terms and conditions of this MOU regardless if any insurance is applicable or not. The insurance policy limits set forth herein shall not act as a limitation upon the amount of indemnification or defense to be provided by CITY hereunder.

14. INSURANCE REQUIREMENTS:

This MOU shall not be executed by COUNTY, and CITY is not entitled to any rights hereunder, unless certificates of insurance or other sufficient proof that the following provisions have been complied with, are filed with the Clerk of the Humboldt County Board of Supervisors.

A. General Insurance Requirements. Without limiting CITY's indemnification obligations provided for herein, CITY shall, and shall require that all subcontractors hereunder, take out and maintain, throughout the entire period of this MOU, and any extended term thereof, the following policies of insurance placed with insurers authorized to do business in the State of California and with a current A.M. Bests rating of no less than A: VII or its equivalent against personal injury, death and property damage which may arise from, or in connection with, the activities of CITY and its agents, officers, directors, employees, licensees, invitees, assignees or subcontractors:

1. Comprehensive or Commercial General Liability Insurance at least as broad as Insurance Services Office Commercial General Liability Coverage (occurrence form CG 0001), in an amount of Two Million Dollars ($2,000,000.00) per occurrence for any one incident, including, but not limited to, personal injury, death and property damage. If a general aggregate limit is used, such limit shall apply separately hereto or shall be twice the required occurrence limit.

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2. Automobile/Motor Liability Insurance with a limit of liability of no less than One Million Dollars ($1,000,000.00) combined single limit coverage. Such insurance shall include coverage of all owned, hired and non-owned vehicles. Said coverage shall be at least as broad as Insurance Service Office Form Code 1 (any auto).

3. Workers' Compensation Insurance, as required by the Labor Code of the State of California, with statutory limits, and Employers Liability Insurance with a limit of no less than One Million Dollars ($1,000,000.00) per accident for bodily injury or disease. Said policy shall contain, or be endorsed to contain, a waiver of subrogation against COUNTY, its agents, officers, officials, employees and volunteers.

4. Professional Liability Insurance – Error and Omission Coverage including coverage in an amount no less than Two Million Dollars ($2,000,000.00) for each occurrence (Four Million Dollars ($4,000,000.00) general aggregate). Said insurance shall be maintained for the statutory period during which CITY may be exposed to liability. CITY shall require that such coverage be incorporated into its professional services agreements with any other entities.

B. Special Insurance Requirements. Said policies shall, unless otherwise specified herein, be endorsed with the following provisions:

1. The Comprehensive or Commercial General Liability Policy shall provide that COUNTY, its agents, officers, officials, employees and volunteers, are covered as additional insured for liability arising out of the operations performed by or on behalf of CITY. The coverage shall contain no special limitations on the scope of protection afforded to COUNTY, its agents, officers, officials, employees and volunteers. Said policy shall also contain a provision stating that such coverage:

   a. Includes contractual liability.

   b. Does not contain exclusions as to loss or damage to property caused by explosion or resulting from collapse of buildings or structures or damage to property underground, commonly referred to as "XCU Hazards."

   c. Is the primary insurance with regard to COUNTY.

   d. Does not contain a pro-rata, excess only and/or escape clause.

   e. Contains a cross liability, severability of interest or separation of insureds clause.

2. The above-referenced policies shall not be canceled, non-renewed or materially reduced in coverage without thirty (30) days prior written notice being provided to COUNTY in accordance with the notice provisions set forth herein. It is further understood that CITY shall not terminate such coverage until COUNTY receives adequate proof that equal or better insurance has been secured.

3. The inclusion of more than one insured shall not operate to impair the rights of one insured against another insured, and the coverage afforded shall apply as though separate policies had been issued to each insured, but the inclusion of more than one insured shall not operate to increase the limits of the insurer's liability.

4. For claims related to this MOU, CITY's insurance is the primary coverage to COUNTY, and any insurance or self-insurance programs maintained thereby are excess to CITY's insurance and will not be used to contribute therewith.

5. Any failure to comply with the provisions of this MOU, including breach of warranties, shall not affect coverage provided to COUNTY, its agents, officers, officials, employees and volunteers.

6. CITY shall furnish COUNTY with certificates and original endorsements effecting the required coverage prior to execution of this MOU. The endorsements shall be on forms approved by the Humboldt County Risk Manager or County Counsel. Any deductible or self-insured retention over One Hundred Thousand Dollars ($100,000.00) shall be disclosed to, and approved by, COUNTY. If CITY does not keep all required policies in full force and effect, COUNTY may, in addition to other remedies under this MOU, take out the necessary insurance, and CITY agrees to pay the cost thereof. COUNTY is also hereby authorized with the discretion to deduct the cost of said insurance from the monies owed to CITY under this MOU.

7. COUNTY is to be notified immediately if twenty-five percent (25%) or more of any required insurance aggregate limit is encumbered, and CITY shall be required to purchase additional coverage to meet the above-referenced aggregate limits.

C. Insurance Notices. Any and all insurance notices required to be given pursuant to the terms of this MOU shall be sent to the addresses set forth below in accordance with the notice provisions described herein.

COUNTY: County of Humboldt
Attention: Risk Management
825 Fifth Street, Room 131
Eureka, California 95501

CITY: City of Rio Dell
Attention: Kyle Knopp, City Manager
675 Wildwood Avenue
Rio Dell, CA 95562

15. RELATIONSHIP OF PARTIES:

It is understood that this is an MOU by and between two (2) independent entities and is not intended to, and shall not be construed to, create the relationship of agent, servant, employee, partnership, joint venture, or any other similar association. Both parties further agree that CITY shall not be entitled to any benefits to which COUNTY employees are entitled, including, but not limited to, overtime, retirement benefits, leave benefits or workers' compensation. CITY shall be solely responsible for the acts or omissions of its agents, officers, employees, assignees and subcontractors.

16. COMPLIANCE WITH APPLICABLE LAWS AND LICENSURE REQUIREMENTS:

CITY agrees to comply with all local, state and federal laws and regulations applicable to the clerical support services provided pursuant to the terms and conditions of this MOU. CITY further agrees to comply with any and all applicable local, state and federal licensure and certification requirements.

17. PROVISIONS REQUIRED BY LAW:

This MOU is subject to any additional local, state and federal restrictions, limitations, or conditions that may affect the provisions, terms or funding of this MOU. This MOU shall be read and enforced as though all legally required provisions are included herein, and if for any reason any such provision is not included, or is not correctly stated, the parties agree to amend the pertinent section to make such insertion or correction.

18. REFERENCE TO LAWS AND RULES:

In the event any law, regulation, policy or procedure referred to in this MOU is amended during the term hereof, the parties agree to comply with the amended provision as of the effective date of such amendment.

19. SEVERABILITY:

If any provision of this MOU, or any portion thereof, is found by any court of competent jurisdiction to be unenforceable or invalid for any reason, such provision shall be severable and shall not in any way impair the enforceability of any other provision of this MOU.

20. ASSIGNMENT:

Neither party shall delegate its duties nor assign its rights hereunder, either in whole or in part, without the other party's prior written consent. Any assignment by CITY in violation of this provision shall be void, and shall be cause for immediate termination of this MOU. This provision shall not be applicable to service agreements or other arrangements usually or customarily entered into by CITY to obtain supplies, technical support or professional services.

21. AGREEMENT SHALL BIND SUCCESSORS:

All provisions of this MOU shall be fully binding upon, and inure to the benefit of, the parties and to each of their heirs, executors, administrators, successors and permitted assigns.

22. WAIVER OF DEFAULT:

The waiver by either party of any breach or violation of any requirement of this MOU shall not be deemed to be a waiver of any such breach in the future, or of the breach of any other requirement of this MOU. In no event shall any payment by COUNTY constitute a waiver of any breach of this MOU or any default which may then exist on the part of CITY. Nor shall such payment impair or prejudice any remedy available to COUNTY with respect to any breach or default. COUNTY shall have the right to demand repayment of, and CITY shall promptly refund, any funds disbursed to CITY, which in the judgment of COUNTY were not expended in accordance with the terms of this MOU.

23. STANDARD OF PRACTICE:

CITY warrants that it has the degree of learning and skill ordinarily possessed by reputable professionals practicing in similar localities in the same profession and under similar circumstances. CITY's duty is to exercise such care, skill and diligence as professionals engaged in the same profession ordinarily exercise under like circumstances.

24. NON-LIABILITY OF COUNTY OFFICIALS AND EMPLOYEES:

No official or employee of COUNTY shall be personally liable for any default or liability under this MOU.

25. AMENDMENT:

This MOU may be amended at any time during the term of this MOU upon the mutual consent of both parties. No addition to, or alteration of, the terms of this MOU shall be valid unless made in writing and signed by the parties hereto.

26. TITLE TO INFORMATION AND DOCUMENTS:

It is understood that any and all documents, information, and reports concerning the subject matter of this MOU prepared and/or submitted by CITY shall become the property of COUNTY. However, CITY may retain copies of such documents and information for its records. In the event of termination of this MOU, for any reason whatsoever, CITY shall promptly turn over all information, writings and documents to COUNTY without exception or reservation.

27. JURISDICTION AND VENUE:

This MOU shall be construed in accordance with the laws of the State of California. Any dispute arising hereunder, or relating hereto, shall be litigated in the State of California and venue shall lie in the County of Humboldt unless transferred by court order pursuant to California Code of Civil Procedure Sections 394 or 395.

28. ADVERTISING AND MEDIA RELEASE:

All informational material related to this MOU shall receive approval from COUNTY prior to being used as advertising or released to the media, including, but not limited to, television, radio, newspapers and internet. COUNTY shall provide to CITY suggested language, and a Measure Z Logo, for all press releases. In addition, CITY shall inform COUNTY of all requests for interviews by media related to this MOU before such interviews take place; and COUNTY is entitled to have a representative present at such interviews. All notices required by this provision shall be given to the Humboldt County Administrative Officer.

29. SUBCONTRACTS:

CITY shall obtain prior written approval from COUNTY before subcontracting any of the clerical support services to be provided hereunder. Any and all subcontracts shall be subject to all applicable terms and conditions of this MOU, including, without limitation, the licensing, certification and confidentiality requirements set forth herein. CITY shall remain legally responsible for the performance of all terms and conditions of this MOU, including work performed by third parties under subcontracts, whether approved by COUNTY or not.

30. SURVIVAL:

The duties and obligations of the parties set forth in Section 4(D) – Compensation Upon Termination, Section 8 – Record Retention and Inspection, Section 10 – Confidential Information and Section 13 – Indemnification shall survive the expiration or termination of this MOU.

31. CONFLICTING TERMS OR CONDITIONS:

In the event of any conflict in the terms or conditions set forth in any other agreements in place between the parties hereto and the terms and conditions set forth in this MOU, the terms and conditions set forth herein shall have priority.

32. INTERPRETATION:

This MOU, as well as its individual provisions, shall be deemed to have been prepared equally by both of the parties hereto, and shall not be construed or interpreted more favorably for one party on the basis that the other party prepared it.

33. INDEPENDENT CONSTRUCTION:

The titles of the sections, subsections and paragraphs set forth in this MOU are inserted for convenience of reference only, and shall be disregarded in construing or interpreting any of the provisions of this MOU.

34. FORCE MAJEURE:

Neither party hereto shall be liable or responsible for delays or failures in performance resulting from events beyond the reasonable control of such party and without fault or negligence of such party. Such events shall include, but not be limited to, acts of God, strikes, lockouts, riots, acts of war, epidemics, acts of government, fire, power failures, nuclear accidents, earthquakes, unusually severe weather, acts of terrorism or other disasters, whether or not similar to the foregoing.

35. ENTIRE AGREEMENT:

This MOU contains all of the terms and conditions agreed upon by the parties hereto and no other agreements, oral or otherwise, regarding the subject matter of this MOU shall be deemed to exist or to bind either of the parties hereto. In addition, this MOU shall supersede in its entirety any and all prior agreements, promises, representations, understandings and negotiations of the parties, whether oral or written, concerning the same subject matter. Any and all acts which may have already been consummated pursuant to the terms and conditions of this MOU are hereby ratified.

36. AUTHORITY TO EXECUTE:

Each person executing this MOU represents and warrants that he or she is duly authorized and has legal authority to execute and deliver this MOU. Each party represents and warrants to the other that the execution and delivery of this MOU and the performance of such party's obligations hereunder have been duly authorized.

[Signatures on Following Page]

IN WITNESS WHEREOF, the parties hereto have entered into this MOU as of the first date written above.

CITY OF RIO DELL:

By: _____ Date: _____

Name: _____

Title: _____

COUNTY OF HUMBOLDT:

By: _____ Date: _____
Mark Lovelace
Chair Board of Supervisors

INSURANCE AND INDEMNIFICATION REQUIREMENTS APPROVED:

By: _____ Date: _____
Risk Management

LIST OF EXHIBITS:

Exhibit A – Application for Measure Z Funding
Exhibit B – Quarterly and Final Summary Reports
Exhibit C – Quarterly and Final Report Form
Exhibit D – Schedule of Rates
Exhibit E – Measure Z Invoice Form

EXHIBIT B
QUARTERLY AND FINAL SUMMARY REPORT
City of Rio Dell
Fiscal Year 2016-2017

1. DUE DATES:

Quarterly reports are due one month after the end of each quarter. Quarterly reports will be based on COUNTY fiscal year quarters. The table below shows each fiscal year quarter and the report due dates. CITY must submit a quarterly report for each quarter in which the contract is active. The Final Summary Report is due one month after completion of the contract term.

Quarter	Dates Included	Date Report Due to County
1	July 1 through September 30	October 31
2	October 1 through December 31	January 31
3	January 1 through March31	April 30
4	April 1 through June 30	July 31
Final Summary Report	Based on contract term	One month after term end

2. SUBMISSION OF REPORTS:

All reports should be emailed to cao@co.humboldt.ca.us or sent by U.S. mail to the following address:

COUNTY: Humboldt County Administrative Office
825 Fifth Street, Room 112
Eureka, California 95501

EXHIBIT C
QUARTERLY AND FINAL REPORT FORM
City of Rio Dell
Fiscal Year 2016-2017

COUNTY OF HUMBOLDT – MEASURE Z
Report Form

Organization Name: _____ **Report Date:** _____

Contact Name: _____ **Phone:** _____

Please attach a narrative report addressing the items outlined in section I below. Feel free to attach any other relevant materials or reports.

I. QUARTERLY NARRATIVE (please attach a maximum of 1 page, exclusive of attachments)

A. Results/Outcomes

☐ 1. Please describe the Measure Z activities completed and/or total numbers served or reached.

☐ 2. What difference did Measure Z funding make in our community and for the population you are serving? Please discuss evidence of effect (e.g., community indicators, outcomes, etc.). *If you have evaluation materials that document outcomes and impacts of your work, feel free to attach them in lieu of answering this or other questions.*

☐ 3. Describe any unanticipated impacts of receiving Measure Z funding, positive or negative, not already described above.

II. FINAL SUMMARY REPORT (please attach a maximum of 2 pages, exclusive of attachments)

A. Lessons Learned

☐ 1. Describe what you learned based on the results/outcomes you reported in Section A above and what, if any, changes you will make based on your results/outcomes.

☐ 2. What overall public safety improvements has your organization seen as a result of receiving Measure Z funding?

Rio Dell City Hall
675 Wildwood Avenue
Rio Dell, CA 95562
(707) 764-3532
riodellcity.com

July 19, 2016

TO: Rio Dell City Council

FROM: Kyle Knopp, City Manager

SUBJECT: Presentation and Discussion on City Engineering Projects

IT IS RECOMMENDED THAT THE CITY COUNCIL:

Receive the presentation.

BACKGROUND AND DISCUSSION

The City's engineering firm, GHD, will provide an update on projects for the City. The discussion will include an update on the Metropolitan Wells, water system capital improvement project and planning grant, Active Transportation Program (ATP) safety improvements and grants for the Belleview/Ogle drainage improvements. No action is required on this topic.

Attached is the draft Powerpoint for the presentation.

///

City Engineer Update

- Metropolitan Wells Project
- Water System Capital Improvement Funding
- Rio Dell Safety Improvement and Community Outreach Project

Metropolitan Wells Project

Progress

- April 2015 Monitoring Wells installed and Well Cleaning Completed
- July 2015 DWR Prop 84 Grant Contract Signed
- September 2015 USDA ECWAG Obligated to Project
- January 2016 60% Design Complete
- March 2016 Drinking Water SRF Funding Process Re-started
- May 2016 Final Design Complete
- June 16, 2016 Bids opened
- July 2016 Drinking Water SRF Application review complete

Metropolitan Wells Bid Strategy

- Base Bid
  - Basic Project
  - Single Filter Unit (Building Large Enough for Two)
  - Gravel Finish
  - No Generator
- Additive Bid Items
  - Chlorine Contact Pipe
  - Second Filter Unit and Support Systems
  - Paved Driveway
- Contingency Management
  - City Directly Purchase Generator as Funds Allow

Metropolitan Wells Project

Bid Results June 16, 2016

	Wahlund Construction Inc.	Mercer Fraser Co.	GR Sundberg
Base Bid	$1,079,200	$1,043,000	$1,273,000
Additive Items	$296,700	$370,000	$360,250
Total Bid	$1,375,900	$1,413,000	$1,633,250

Bids are good until October 14, 2016

Metropolitan Wells Project Budget

Budget Item	
Base Bid	$1,079,200
Recommended Additive Items	$223,700
Construction Contingency	$130,290
Completed Monitoring well Construction	$53,946
Project Admin and Planning	$68,140
Design and Bidding	$120,300
Construction Management	$203,500
Total Budget	**$1,879,076**

Metropolitan Wells Project Funding

Funding Source	Budget
DWR Prop 84 Grant	$ 783,000
ECWAG	$ 373,200
DWSRF (Requested)	$ 665,876
City Contribution	$ 57,000
Total	$1,879,076

Assuming DWSRF Funding Approved, Complete Project is fully funded

Metropolitan Wells Project

Next Steps

- September Sign DWSRF Funding Agreement (tentative)
- September 20 Award Project, and approve City Manager to sign contract an notice to proceed
- October 2016 Construction Starts
- April 2017 Construction Ends (includes lead time for ordering and manufacturing equipment)

Water System Capital Improvement Plan Priority Projects

Water System Priority Projects	2014 Capital Cost
Infiltration Gallery Extension	$1,000,000
Replacement of Distribution Piping (4" & 2" or smaller)	$2,500,000
Painter Street Tank Replacement	$300,000
Water Meters (Not DWSRF Eligible <20 years old)	$320,000
Miscellaneous Equipment (Partial DWSRF Eligibility)	$210,000
Total	$4,330,000

Water System Capital Improvement Funding

- GHD submitted a $475,700 Drinking Water Planning Grant to the SWRCB in March 2016 which covers:
  - Engineering Report to evaluate improvements to the infiltration gallery, storage tanks, and distribution system
  - Background studies: Survey, Geotechnical Analysis, Biological Investigation, Wetlands Survey, and Cultural Resources investigation
  - Design of City approved improvements
  - CEQA and permitting
- Application if for 100% grant funding
- Same Grant Manager as Wells Project – application is under review – 6-9 months for a final funding agreement.

Belleview/ Ogle Stormwater Project

- Evaluated Proposition 1 Storm Water Grant Program as possible funding source
- Review of the program showed, it was not a good match for the City's project
- Next steps:
  - Continue to Evaluate Funding opportunities as they come up
  - Review overall project to see if it can be made more appealing to potential Prop 1 Programs, which focus on infiltration, water quality, and restoration

Rio Dell Safety Improvement and Community Outreach Project

Active Transportation Program/ CTC $1.533 Million Grant

- June 2016 — CTC Allocation Request Submitted to Caltrans
- August 2016 — Request for Qualifications (RFQ) for PA&ED Phase.
- Sept 2016 — Select Consultant
- October 2016 — CTC Meeting to Approve (Preliminary Approval and Environmental Document (PA&ED) Phase.
- Mar 2017 — Complete PA&ED
- June 2017 — CTC Allocation for Plans, Specifications, and Estimate (PS&E), per ATP program schedule
- June 2018 — CTC Allocation for Construction, per ATP program schedule

Questions?

675 Wildwood Avenue
Rio Dell, CA 95562
(707) 764-3532

For Meeting of: July 19, 2016

To: City Council

From: Kyle Knopp, City Manager

Date: July 6, 2016

Subject: Possible Adoption of the Medical Cannabis Commercial Land Use Regulations, Section 17.30.195 of the Rio Dell Municipal Code (RDMC).

Recommendation:

That the City Council:

1. Open the public hearing, receive staff's report regarding amendments made to Ordinance 342-2016; and

2. Receive public input and deliberate; and

3. Adopt Ordinance 342-2016 establishing the Medical Cannabis Commercial Land Use Regulations, Section 17.30.195 of the Rio Dell Municipal Code (RDMC) conditioned upon the citizens of the City of Rio Dell adopting and approving a business tax upon persons engaged in commercial cultivation, processing, manufacturing, testing, and distribution of cannabis for medical use at a future election. This ordinance shall become effective, if at all, on the date the ordinance imposing a business tax becomes effective.

4. If adopted, call a special meeting to propose a cannabis tax measure for the November 8, 2016 General Election.

Discussion

In November of 1996 California voters passed Proposition 215 making it legal for individuals to cultivate and possess marijuana in the state for medical purposes only, specifically with a recommendation from a licensed physician. The Proposition has been widely criticized since for its incomplete regulatory framework. Various attempts have been made to complete the necessary regulatory language surrounding medical marijuana, including SB 420 (medical marijuana ID cards) and various court cases and legislation to modify criminal penalties.

The first real legislative regulatory framework was initiated last year. In October of 2015, Governor Jerry Brown signed the "Medical Marijuana Safety and Regulation Act" (MMRSA) into law. The Act was composed of three bills, AB 266 (Bonta), SB643 (McGuire) and AB 243 (Wood) which began creation of a substantive regulatory framework for medical cannabis in California. Among the many clarifications contained within MMRSA, the law clearly reinforces the ability for local governments to regulate this activity and to tax this activity.

It should be noted that Rio Dell already has some regulations on Medical Marijuana. Rio Dell Municipal Code §17.30.190 currently regulates medical marijuana cultivation within the city limits, allowing indoor cultivation for personal medical use up to a maximum of 50 square feet. No tax is imposed on this activity. Rio Dell Municipal Code §5.35.480 currently prohibits dispensaries within city limits.

In response to this new regulatory framework produced by the State, the City Council and Planning Commission have held a series of discussions summarized below:

December 10, 2015 – City Council Workshop on MMRSA.

January 14, 2016 – Planning Commission overview of MMRSA and Land Use Ordinance (LUO).

February 23, 2016 – Planning Commission review of LUO.

March 8, 2016 – Planning Commission review of LUO cultivation regulations.

March 22, 2016 – Planning Commission review of LUO manufacturing regulations.

April 12, 2016 – Planning Commission review of LUO testing laboratory and dispensing regulations and referral and recommendation to the City Council.

April 19, 2016 – City Council's first review of calendar and timeline to consider and adopt medical marijuana regulations and tax.

May 3, 2016 – City Council overview on MMRSA.

May 10, 2016 – City Council review of LUO cultivation regulations.

May 17, 2016 – City Council review of LUO manufacturing regulations.

May 24, 2016 - City Council review of Track & Trace requirements and initial tax discussion.

June 7, 2016 – City Council receives presentation on medical marijuana from physicians.

June 13, 2016 – City Council's second review of calendar and timeline to consider and adopt medical marijuana regulations and tax.

June 14, 2016 – City Council discussion and direction on tax measure.

June 21, 2016 – City Council review of LUO testing & dispensaries regulations and vote on LUO as a package. Vote to pass LUO fails 3-2.

July 5, 2016 – City Council review and vote on proposed cannabis taxation Ordinance and Resolution for November 8, 2016 General Election. Vote to pass fails 3-2.

At the July 5, 2016 meeting, the City Council directed staff to return on July 19, 2016 with an amended version of the Land Use Ordinance. Council directed staff to return with the LUO amended to place cannabis activity north of the river only, creating a regulatory framework for the Eel River Sawmills Annexation Area.

Staff has amended the Cannabis Land Use Ordinance as directed. However, staff does not recommend adopting the Cannabis Land Use Ordinance without placing a tax measure on the November ballot. If the Council approves of the amended Land Use Ordinance, it is recommended that the Council call a special meeting for Tuesday, July 26th 2016 to revisit the tax proposal from the July 5th meeting. This timeline allows for the Board of Supervisors to place the tax on its August 9th agenda, just three days from the August 12th statutory deadline.

Attachment 1: Amended Ordinance No. 342-2016

///

ORDINANCE NO. 342-2016

An ordinance establishing Section 17.30.195 of Title 17 of the Rio Dell Municipal Code relating to the Commercial Cultivation, Processing, Manufacturing and Distribution of Cannabis for Medical Use.

The City Council of the City of Rio Dell ordains as follows:

WHEREAS, California Government Code Section 65850, et seq. authorizes counties and cities to regulate land use, including agriculture, and to adopt and amend zoning ordinances for such purposes, and sets forth procedures governing the adoption and amendment of such ordinances; and

WHEREAS, on October 9, 2015 Governor Brown approved a package of three bills enacted by the legislature on September 11, 2015, SB 643, AB 243, and AB 266, providing for comprehensive, concurrent regulation and licensing by state and local governments of medical cannabis as an agricultural product, including its cultivation, processing, testing, manufacture, distribution, transportation, dispensing, and delivery; and

WHEREAS, pursuant to Section 11362.777, subsection (c)(3), "A city, county, or city and county's locally issued conditional permit requirements must be at least as stringent as the Department of Food and Agriculture's state licensing requirements"; and

WHEREAS, the state statutes establishing a regulated, legitimate basis for commercial medical cannabis economic activities under the authorization of state law provide an opportunity to bring unregulated activities into compliance with existing law and ameliorate adverse environmental impacts, while bringing it out of the shadows of an underground, black-market economy into a legitimate agricultural and commercial contributor to the local and state economy; and

WHEREAS, the City of Rio Dell has previously adopted a land use ordinance governing indoor and outdoor cultivation of medical cannabis for personal use; and

WHEREAS, the Planning Commission held five public hearings on the proposed Ordinance governing the Commercial Cultivation, Processing, Testing, Manufacturing and Distribution of Cannabis for Medical Use to receive a reports on the draft ordinance, as well as evidence and public testimony; and

WHEREAS, the Planning Commission reviewed and considered the report, evidence, and other testimony presented to the Commission, and recommended revisions to the draft land use Ordinance Governing the Commercial Cultivation of Commercial Cultivation, Processing, Manufacturing and Distribution for Medical Use; and

WHEREAS the City has reviewed and processed the proposed amendment in conformance with Sections 65350 – 65362 of the California Government Code; and

WHEREAS the City has reviewed and processed the proposed amendment in conformance with Section 17.35.010 of the City of Rio Dell Municipal Code; and

WHEREAS the City finds that based on evidence on file and presented in the staff report that the proposed amendment is consistent and compatible with the General Plan and any implementation programs that may be affected; and

WHEREAS the proposed amendment has been processed in accordance with the applicable provisions of the California Government Code and the California Environmental Quality Act (CEQA); and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Rio Dell does hereby ordain as follows:

SECTION 1. Section 17.30.195 of Title 17 of the Rio Dell Municipal Code is hereby added as follows:

(1) Authority and Title

This Section shall be known as the Medical Cannabis Commercial Land Use Ordinance ("MMCLUO"), which provides for the regulation of Commercial Cultivation, Processing, Manufacturing and Distribution of cannabis for medical use, as defined in this Code, located within the City of Rio Dell

(2) Purpose and Intent

The purpose of this Section is to establish land use regulations concerning the commercial cultivation, processing, manufacturing and distribution of cannabis for medical use within the City of Rio Dell in order to limit and control such cultivation in coordination with the State of California in the implementation of the Medical Cannabis Regulation and Safety Act (MMRSA)(SB 643, AB 266, and AB 243 as adopted September 11, 2015, and approved by the Governor on October 9, 2015), so as to ensure the health and safety of employees, independent contractors, visitors to the area, neighboring property owners, and end users of medical cannabis; to protect the environment from harm to streams, fish, and wildlife; to

ensure the security of the medical cannabis; and to safeguard against the diversion of medical cannabis for non-medical purposes. It is intended to address the City of Rio Dell's prerogative to permit, and control commercial cultivation, processing, manufacturing and distribution of cannabis for medical cannabis as set forth in the MMRSA, including, but not limited to the provisions of Business and Professions Code Sections 19315, 19316, 19320, 19322, 19332, and 19360 and Health and Safety Code Section 11362.777, in conjunction with state licensing requirements, in order to protect the public health, safety, and welfare of the residents of the City of Rio Dell, and to reduce or eliminate any adverse environmental effects of existing commercial cannabis cultivation operations in the City of Rio Dell, and to prevent adverse environmental effects of any new commercial cannabis activities which may be permitted in the future in accordance with this Section and state law. This Section is not intended to supersede the provisions of Section 17.30.190 of the Rio Dell Municipal Code concerning cultivation of medical cannabis for personal use.

(3) Applicability and Interpretation

(a) These regulations shall apply to the location and permitting of commercial cultivation, processing, manufacturing, and distribution of cannabis for medical use in zoning districts within which such use is authorized, as specified in this Section.

(b) The commercial cultivation, processing, manufacturing, and distribution of cannabis for medical use within the jurisdiction of the City of Rio Dell shall be controlled by the provisions of this Section, regardless of whether those activities existed or occurred prior to the adoption of this Section.

(c) Nothing in this Section is intended, nor shall it be construed, to exempt the commercial cultivation, processing, manufacturing, and distribution of cannabis for medical use, from compliance with all other applicable zoning, and land use regulations, as well as compliance with any applicable state laws.

(d) Nothing in this Section is intended, nor shall it be construed, to exempt the commercial cultivation, processing, manufacturing, and distribution of cannabis for medical use, as defined herein, from any and all applicable local and state construction, electrical, plumbing, land use, water rights, waste water discharge, streambed alteration, or any other environmental, building or land use standards or permitting requirements.

(e) Nothing in this Section is intended, nor shall it be construed, to preclude a landlord or property owner from limiting or prohibiting commercial cultivation, processing, manufacturing, or distribution of cannabis for medical use on private property.

(f) The definitions in this Section are intended to apply solely to the regulations in this section.

(g) Notwithstanding the fact that Health and Safety Code Section 11362.777 declares that medical cannabis is an agricultural product for purposes of that Section and the MMRSA, Business and Professions Code Section 19300, et. seq., the commercial cultivation of cannabis for medical use is a highly regulated specialty crop and cultivation and processing of that specialty crop shall not be allowed as a principal permitted use unless a Conditional Use Permit is first obtained from the City of Rio Dell, and the person engaged in such activity has obtained all state licenses and permits which may be required by the applicable state licensing authorities whenever such licenses become available.

(4) Release of Liability and Hold Harmless

As a condition of approval for any Conditional Use Permit approved for the commercial cultivation, processing, manufacturing, testing, or distribution of cannabis for medical use, as defined herein, the owner or permittee shall indemnify and hold harmless the City of Rio Dell and its agents, officers, elected officials, and employees for any claims, damages, or injuries brought by affected property owners or other third parties due to the commercial cultivation, processing, manufacture, or distribution of cannabis for medical use and for any claims brought by any person for problems, injuries, damages, or liabilities of any kind that may arise out of the commercial cultivation, processing, manufacture, or distribution of cannabis for medical use.

(5) Penalties and Enforcement

All of the remedies provided for in this Section shall be cumulative and not exclusive of remedies available for violations under any other Section of the Rio Dell Municipal Code and the MMRSA.

Any violation of this Section, including, but not limited to failure to obtain and maintain in good standing the required Conditional Use Permit specified in this Section, shall be, and the same hereby is declared to be, a public nuisance and unlawful and shall be subject to injunction, abatement or any other administrative, civil, or criminal remedy available to the City under the applicable state and City laws, including those set forth in the Rio Dell Municipal Code.

(6) Definitions

"Area of Traditional Tribal Cultural Affiliation" means geographic areas of historic occupancy and traditional cultural use by local indigenous peoples (California Native American Tribes), as shown on the latest mapping prepared by the County of Humboldt Planning & Building Department, created from geographic information supplied by the Tribes of Humboldt County.

"Cannabis" means all parts of the plant Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, or any other strain or varietal of the genus Cannabis that may exist or hereafter be discovered or developed that has psychoactive or medicinal properties, whether growing or

not, including the seeds thereof. "Cannabis" also means cannabis as defined by Section 11018 of the Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972. For the purpose of this section, "cannabis" does not mean "industrial hemp" as defined by Section 81000 of the Food and Agriculture Code or Section 11018.5 of the Health and Safety Code.

"Commercial Cannabis Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis for medical use, including nurseries, that is intended to be transported, processed, manufactured, distributed, dispensed, delivered, or sold in accordance with the Medical Cannabis Regulation and Safety Act (MMRSA) for use by medical cannabis patients in California pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code.

"Cultivation Area" the area encompassed by the perimeter surrounding the area within which cannabis plants are cultivated. Where plants are cultivated in separated pots, beds or plots, the cumulative total surface area of all such pots, beds or plots, and the surface area underneath the maximum anticipated extent of vegetative growth of cannabis plants to be grown in separate pots, beds or plots, used in combination for a single permitted cultivation operation.

"Cultivation site" means the location or a facility where medical cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or that does all or any combination of those activities, except where drying, curing, grading or trimming is otherwise prohibited.

"Dispensary" means a facility where medical cannabis, medical cannabis products, or devices (excluding pipes and water pipes) for the use of medical cannabis products are offered, either individually or in any combination, for retail sale.

"Distribution Facility" means the location or a facility where a person licensed with a Type 11 license pursuant to the MMRSA conducts the business of procuring medical cannabis from licensed cultivators or manufacturers for sale to licensed dispensaries, and the inspection, quality assurance, batch testing by a Type 8 licensee, storage, labeling, packaging and other processes prior to transport to licensed dispensaries.

"Indoor" means indoor cultivation using exclusively artificial lighting.

"Licensee" means a person issued a state license under the MMRSA to engage in commercial cannabis activity.

"Manufacturing Facility" means a process whereby the raw agricultural product is transformed into a concentrate, an edible product, or a topical product, and the production, preparation, propagation, or compounding of medical cannabis or medical cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis.

"Mixed-Light" means cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold as set forth in performance standards in Section 55.4.11 (t), et seq. of this ordinance, or as to be determined by the Department of Food and Agriculture, whichever is less.

"Nursery" means a licensee that produces only clones, immature plants, seeds, and other agricultural products for retail or wholesale sale, used specifically for the planting, propagation, and cultivation of medical cannabis.

"Outdoor" means outdoor cultivation using no artificial lighting.

"Person" means an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit and includes the plural as well as the singular number.

"Premises" means a legal parcel compliant with the Subdivision Map Act, or a leasehold interest in agricultural land for agricultural purposes of outdoor or mixed-light cultivation or processing of medical cannabis, or space in an industrial or commercial building for purposes of indoor cultivation, processing, manufacture, or distribution of medical cannabis.

"Processing Facility" means the location or facility where medical cannabis is dried, cured, graded, trimmed, and/or packaged by or under the control of one or more licensed cultivators, at a location separate from the cultivation site where the medical cannabis is grown and harvested.

"State license," means a state license issued pursuant to the MMRSA.

"Testing Laboratory" means a facility, entity, or site in the state that offers or performs tests of medical cannabis or medical cannabis products and that is both of the following:

(1) Accredited by an accrediting body that is independent from all other persons involved in the medical cannabis industry on the state; and

(2) Registered with the Department of Public Health.

"Tribal Cultural Resources" means sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe, including unique archaeological resources and historical resources as described under sections 21074, 21083.2(g), and 21084.1 of the Public Resources Code, respectively. Tribal Cultural Resource shall also include sites or resources identified by the tribe through an action of the Tribal Council or equivalent body.

(7) General Provisions

This section applies to all facilities and activities involved in the Commercial Cultivation, Processing, Manufacturing, Testing or Distribution of cannabis for medical use, as defined in this Section.

(a) All commercial cultivation, processing, manufacturing, testing, or distribution of cannabis for medical use shall operate in compliance with this Section, as well as all applicable state and local laws and conditions as deemed appropriate by **the** Planning Commission and/or the City Council.

(b) Outdoor and Mixed-Light commercial cultivation of cannabis for medical use shall be conducted entirely within a fully enclosed, secure and lockable greenhouse and shall be conditionally permitted in the ~~Rural (R)~~ **Industrial Commercial (IC)** and Natural Resources (NR) designations **located in the Sawmill Annexation area**, pursuant to the "Outdoor" and "Mixed-Light" parcel size and cultivation area provisions described in Table 8.1 and subject to the conditions and limitations set forth in this Section and as deemed appropriate by **the** Planning Commission and/or the City Council.

(c) Indoor commercial cultivation of cannabis for medical use shall be conditionally permitted in the Industrial Commercial (IC)~~, Rural (R)~~ and Natural Resources (NR) designations **located in the Sawmill Annexation area** pursuant to the "Indoor" parcel size and cultivation area provisions described in Table 8.1 and subject to the conditions and limitations set forth in this Section and as deemed appropriate by **the** Planning Commission and/or the City Council.

(d) Processing Facilities accessory and appurtenant to on site cultivation for commercial cannabis for medical use shall be a conditionally permitted use in the Industrial Commercial (IC)~~, Rural (R)~~ and Natural Resources (NR) designations **located in the Sawmill Annexation area** ~~zoning districts~~, subject to a Conditional Use Permit and the conditions and limitations set forth in this Section and as deemed appropriate by **the** Planning Commission and/or the City Council.

(e) Stand alone, independent Processing Facilities for commercial cannabis for medical use shall be a conditionally permitted use in the Industrial Commercial (IC) designation zoning district **located in the Sawmill Annexation area**, subject to a Conditional Use Permit and the conditions and limitations set forth in this Section and as deemed appropriate by **the** Planning Commission and/or the City Council.

(f) Extraction manufacturing of commercial cannabis concentrates for medical use shall be a conditionally permitted use in the Industrial Commercial (IC) designation **located in the Sawmill Annexation area**, subject to a Conditional Use Permit and the conditions and

limitations set forth in this Section and as deemed appropriate by **the** Planning Commission and/or the City Council.

(g) Manufacturing of edibles (commercial kitchens) for medical use shall be a conditionally permitted use in the Industrial Commercial (IC), ~~Town Center (TC), Neighborhood Center (NC) and Community Commercial (CC)~~ designation **located in the Sawmill Annexation area** subject to a Conditional Use Permit and the conditions and limitations set forth in this Section and as deemed appropriate by **the** Planning Commission and/or the City Council.

(h) Wholesale Distribution Facilities for commercial cannabis for medical use shall be a conditionally permitted use in the Industrial Commercial (IC) designation **located in the Sawmill Annexation area** subject to a Conditional Use Permit and the conditions and limitations set forth in this Section and as deemed appropriate by **the** Planning Commission and/or the City Council.

(i) Nurseries, as defined herein, producing commercial cannabis nursery products for retail sale, bulk wholesale sale or to supply retail nursery outlets shall be a conditionally permitted use in the Industrial Commercial (IC)~~, Rural (R)~~ and Natural Resources (NR) designation~~s,~~ **located in the Sawmill Annexation area** subject to a Conditional Use Permit and the conditions and limitations set forth in this Section and as deemed appropriate by **the** Planning Commission and/or the City Council.

(i) Testing laboratories as herein defined shall be conditionally permitted in the Industrial Commercial (IC)~~, Town Center (TC), Neighborhood Center (NC) and Community Commercial (CC)~~ designation **located in the Sawmill Annexation area** subject to a Conditional Use Permit and the conditions and limitations set forth in this Section and as deemed appropriate by **the** Planning Commission and/or the City Council.

(j) Dispensaries as herein defined shall be conditionally permitted in the ~~Town Center (TC)~~ designation **located in the Sawmill Annexation area** subject to a Conditional Use Permit and the conditions and limitations set forth in this Section and as deemed appropriate by **the** Planning Commission and/or the City Council.

(k) Other than as enumerated in this Section, the commercial cultivation, processing, manufacturing, testing or distribution of cannabis for medical use in any other zoning district in the City of Rio Dell is prohibited.

(l) The fact that an applicant possesses other types of state or county or city permits, licenses or other entitlements does not exempt the applicant from the requirement of obtaining a Conditional Use Permit from the City of Rio Dell to engage in the commercial cultivation, processing, manufacturing, testing or distribution of cannabis for medical use within the jurisdiction of the City.

(m) No more than four commercial cannabis activity permits of any type enumerated in Sections 17.30.195(8)(b) through 17.30.195(8)(g) of this ordinance may be issued to a single person, as defined herein. For purposes of this limitation, any natural person who owns or controls any interest, directly or indirectly, in a firm, partnership, joint venture, association, cooperative, collective, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, shall be collectively considered a single person with those entities.

(8) Cultivation Locations, Parcel Sizes and Allowable Canopies

The ~~location of~~ commercial cultivation of cannabis for medical use within the City shall be located in the Sawmill Annexation area ~~determined by the zoning designation and the size of the parcel on which the activity is to be conducted~~ in accordance with the following table:

Table 8.1
Cultivation Locations, Parcel Sizes and Allowable Canopies

Outdoor (Greenhouse) & Mixed-Light Cultivation
~~Rural (R)~~ Industrial Commercial (IC) and Natural Resources (NR) Designations

State License Type	Parcel Size	Allowable Canopy
Type 1 & 1B, "Specialty Outdoor& Specialty Mixed Light"	< 1 acre	1,000 sq. ft.
	1-2.49 acres	2,000 sq. ft.
	2.5-4.99 acres	5,000 sq. ft.
Type 2 & 2B, "Small Outdoor& Small Mixed Light"	5.0- 19.99 acres	10,000 sq. ft.
Type 3 & 3B, "Outdoor& Mixed Light"	≥ 20 acres	22,000 sq. ft.

Indoor Cultivation
Industrial Commercial (IC) Designations

State License Type	Parcel Size	Allowable Canopy
Type 1A, "Specialty Indoor"	< 1 acre	5,000 sq. ft.
Type 2A, "Small Indoor"	1.0- 1.99 acres	10,000 sq. ft.
Type 3A, "Indoor"	≥ 2 acres	22,000 sq. ft.

Indoor Cultivation
~~Rural (R) and~~ Natural Resources (NR) Designations

State License Type	Parcel Size	Allowable Canopy
Type 1A, "Specialty Indoor"	< 1 acre	1,000 sq. ft.
	1-1.99 acres	2,000 sq. ft.

	2.0-4.99 acres	5,000 sq. ft.
Type 2A, "Small Indoor"	5.0- 9.99 acres	10,000 sq. ft.
Type 3A, "Indoor"	≥ 10 acres	22,000 sq. ft.

Nurseries

Industrial Commercial (IC), ~~Rural (R)~~ and Natural Resources (NR) designations

State License Type	Parcel Size	Allowable Canopy
Type 4, "Nursery"	N/A	43,560 sq. ft. State Limit

(a) Processing of cannabis that is cultivated pursuant to these regulations may occur at the cultivation site subject to the Processing Performance Standards and Employee Safety Practices enumerated in Section 17.30.195(10) thru 17.30.195(13) are met.

(b) Multiple applicants may obtain a Conditional Use Permit for outdoor cultivation, mixed-light cultivation, or both, on one legal parcel so long as the cumulative cultivation area is within one contiguous cultivation footprint that does not exceed the total cultivation area size limits set forth in Table 8.1, Cultivation Locations, Parcel Sizes and Allowable Canopies.

(c) A combination of cultivation types may be allowed in the same zone (e.g. outdoor and, mixed light cultivation, or indoor cultivation and processing) that are for a total area equal to or less than the cultivated area size limit for the size of the underlying parcel.

(9) Application Requirements for All MMCLUO Conditional Use Permits:

(a) A completed standard application form for a Conditional Use Permit with the required deposit.

(b) If the applicant is not the record title owner of parcel, written consent of the owner for the application with original signature and notary acknowledgement.

(c) A **Site Plan** shall be submitted showing the entire parcel, including easements, streams and other surface water features, and the location and area for cultivation on the parcel with dimensions of the area for cultivation and setbacks from property lines. The site plan shall also include all areas of ground disturbance or surface water disturbance associated with cultivation activities, including: access roads, water diversions, culverts, ponds, dams, graded flats, and other related features. If the area for cultivation is within ¼ mile (1,320 ft.) of a school, the site plan shall include dimensions showing that the distance from the location of such features to the nearest point of the cultivation area is at least ~~600~~ **1000** feet.

(d) A **Plan of Operations** shall be submitted that includes, describes and addresses the following:

(i) A complete project description including the proposed use(s), hours and days of operation, number of employees, and the duration (temporary, seasonal or permanent) of the operation.

(ii) The number of daily and/or weekly incoming and outgoing deliveries

(iii) A Security Plan that addresses the cultivation, storage, processing, manufacturing and testing of any medical cannabis, including but not limited to video monitoring and commercial alarm systems.

(iv) A Waste Management/Disposal Plan shall be submitted describing any produced wastes, including by-products, recycling, reusing, recovery, storage, diversion and handling and disposal.

(v) A description of the storage or use of any solvents, fertilizers, pesticides, fungicides, rodenticide, or herbicides.

(vi) A description of any discharge or emissions the operation will generate.

(vii) A description of any noise level increase as a result of the operation.

(viii) A description of the operation's use of public facilities such as roads, water or sewer systems.

(ix) A description of any proposed water source, storage, conservation and use; drainage, runoff and erosion control; watershed and habitat protection.

(e) **Tribal Consultation:** For any ground disturbing activities, acknowledge that the City will consult with the local Wiyot Tribe, including their Tribal Historic Preservation Officer (THPO) or other tribal representatives, before the approval of any Conditional Use Permit. During this process, the tribe may request that operations associated with the Conditional Use Permit be designed to avoid, minimize or mitigate impacts to Tribal Cultural Resources, as defined herein. Examples include, but are not limited to: conducting a site visit with the THPO or their designee to the existing or proposed cultivation site, requiring that a professional cultural resources survey be performed, or requiring that a tribal cultural monitor be retained during project-related ground disturbance within areas of sensitivity or concern.

(f) **Community Relations:** Each medical cannabis facility shall provide the City Manager or designee with the name, phone number, facsimile number, and email address of an on-site community relations or staff person or other representative to whom the City can provide notice if there are operating problems associated with the medical cannabis facility or refer members of the public who may have any concerns or complaints regarding the operation of the medical cannabis facility. Each medical cannabis facility shall also provide the above information to its business neighbors located within ~~100~~ 300 feet of the medical cannabis facility.

(g) Consent to a to a minimum of at least one quarterly on-site compliance inspection, to be conducted by appropriate City officials during regular business hours (Monday – Friday, 9:00 am – 5:00 pm, excluding holidays). The applicant shall be required to pay the Inspection Fee in effect at that time.

(h) Owner(s) or employee(s) who makes or will make operational or management decisions that directly impact the business shall consent to a background check pursuant to Section 19322(a)(1)(A) of the Business and Professions Code, including submitting to the Department of Justice fingerprint images and related information required by the Department of Justice for the purpose of obtaining information as to the existence and content of a record of State or Federal convictions and arrests, and information as to the existence and content of a record of State and Federal convictions and arrests for which the Department of Justice establishes that the person is free on bail or on his or her own recognizance, pending trial or appeal. The applicant shall be responsible for the costs associated with the required background check.

(i) No Owner or employee who makes or will make operational or management decisions that directly impact the business shall have been convicted of an offense, or is currently free on bail or on his or her own recognizance pending trial or appeal for an offense, that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, including but not be limited to, the following:

(A) A felony conviction for the illegal possession for sale, sale, manufacture, transportation, or cultivation of a controlled substance;

(B) A violent felony conviction, as specified in subdivision (c) of Section 667.5 of the Penal Code.

(C) A serious felony conviction, as specified in subdivision (c) of Section 1192.7 of the Penal Code.

(D) A felony conviction involving fraud, deceit, or embezzlement.

~~(h)~~ (i) Compliance with the provisions of the Medical Cannabis Regulation and Safety Act.

(j) Inventory Tracking System. All permittees shall purchase, implement and maintain updates to the inventory tracking software from the City's inventory tracking software system (ITSS) provider. A permittee must have at least one individual Owner or contractor who successfully completes all training necessary to properly use the ITSS as a System Administrator. The System Administrator may also designate specific inventory tracking system user(s) that have successfully completed all ITSS training required to access the system under the direct control of the System Administrator. The System Administrator and any designated users shall participate in all ongoing and continuing training as required to stay current with the software.

(i) Inventory Tracking. Permittees shall, at all times, maintain current inventory information on the City's ITSS.

(10) Performance Standards for all MMCLUO Cultivation Operations:

(a) No surface water withdrawals shall be allowed as part of any cultivation operations.

(b) No Timberland Conversion Permits or Exemptions as approved by the California Department of Forestry and Fire Protection (CAL-FIRE) shall be used to facilitate the cultivation of medical cannabis.

(c) The area of cannabis cultivation shall be located as shown on the application site plan, set back at least 50 feet from any property line, and ~~600~~ 1000 feet from any School. Cannabis cultivation is declared to be development, subject to compliance with Section 17.30.110, Environmentally Sensitive Habitat Area's (ESHA's). For purposes of this section, where enhanced, reduced, or modified watercourse or wetland setbacks have been agreed to by the operator and the RWQCB under enrollment pursuant to NCRWQB Order No. 2015-0023 and/or preparation of a Water Resources Protection Plan, these may control and supersede any setback applied pursuant to Section 17.30.110.

(d) Maintain enrollment in Tier 1, 2 or 3, certification with the North Coast Regional Water Quality Control Board Order No. 2015-0023, if applicable, or any substantially equivalent rule that may be subsequently adopted by the City of Rio Dell or other responsible agency.

(e) For cultivation areas for which no enrollment pursuant to NCRWQB Order No. 2015-0023, is required by that Order, compliance with the standard conditions applicable to all Tier 1 dischargers.

(f) The storage or use of any fertilizer, pesticide, fungicide, rodenticide, or herbicide shall be in compliance with the manufacture's recommendations and regulations administered by the

State Department of Pesticide Regulation. Hazardous materials and wastes from agricultural businesses are regulated by the Humboldt County Environmental Health Division, which administers the Hazardous Materials program as one of the Certified Unified Program Agencies (CUPA). This includes the application, inspection, enforcement, and reporting under the program requirements and standards set by the California Environmental Protection Agency (CalEPA).

(g) Trucked water shall not be allowed as the primary water source. Water is to be sourced locally (on-site), except for emergencies. For purposes of this provision, "emergency" is defined as: "a sudden, unexpected occurrence demanding immediate action."

(h) Carbon filter fans or equivalent superior filters/scrubbers shall be required to minimize or eliminate odor discharges to neighboring properties from cultivation and processing facilities.

(i) A Waste Management/Disposal Plan shall be submitted describing any produced wastes, including by-products, recycling, reusing, recovery, storage, diversion and handling and disposal.

(j) Those cultivators using artificial lighting for mixed-light cultivation shall shield greenhouses so that little to no light escapes. Light shall not escape at a level that is visible from neighboring properties between sunset and sunrise. Should the City receive complaints that the lighting is out of alignment or not complying with these standards, within ten (10) working days of receiving written notification that a complaint has been filed, the applicant shall submit written verification that the lights' shielding and alignment has been repaired, inspected and corrected as necessary.

(k) Generators are only allowed as an emergency back-up power source. The noise produced by a generator used for cannabis cultivation shall not be audible from neighboring residences. The decibel level for generators at the property line shall be no more than 60 decibels.

(l) Fuel shall be stored and handled in compliance with applicable state and local laws and regulations, and in such a way that no spillage occurs.

(m) Comply with any special conditions applicable to that permit or parcel which may be imposed as a condition of the required Conditional Use Permit.

(11) Employee Performance Standards for Cultivation and Processing Activities:

(a) Pursuant to the MMRSA, Health and Safety Code section 19322(a)(9), an applicant seeking a cultivation license shall "provide a statement declaring the applicant is an 'agricultural

employer,' as defined in the Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations Act of 1975 (Part 3.5 commencing with Section 1140) of Division 2 of the Labor Code), to the extent not prohibited by law."

(b) Cultivators shall comply with all applicable federal, state, and local laws and regulations governing California Agricultural Employers, which may include: federal and state wage and hour laws, CAL/OSHA, OSHA and the California Agricultural Labor Relations Act.

(c) Cultivators engaged in processing shall comply with the following Processing Practices:

i. Processing operations must be maintained in a clean and sanitary condition including all work surfaces and equipment; and

ii. Processing operations must implement protocols which prevent processing contamination and mold and mildew growth on cannabis; and

iii. Employees handling cannabis in processing operations must have access to facemasks and gloves in good operable condition as applicable to their job function; and

iv. Employees must wash hands sufficiently when handling cannabis or use gloves.

(d) All persons hiring employees to engage in commercial cannabis cultivation and processing shall comply with the following Employee Safety Practices:

i. Cultivation operations and processing operations must implement safety protocols and provide all employees with adequate safety training relevant to their specific job functions, which may include:

- Emergency action response planning as necessary; and
- Employee accident reporting and investigation policies; and
- Fire prevention;
- Hazard communication policies, including maintenance of material safety data sheets (MSDS); and
- Materials handling policies; and
- Job hazard analyses; and
- Personal protective equipment policies, including respiratory protection.

ii. Cultivation operations and processing operations must visibly post and maintain an emergency contact list which includes at a minimum:

- Operation manager contacts; and
- Emergency responder contacts; and
- Poison control contacts.

iii. At all times, employees shall have access to safe drinking water and toilets and handwashing facilities that comply with applicable federal, state, and local laws and regulations. Plumbing facilities and water source must be capable of handling increased usage without adverse consequences to neighboring properties or the environment.

iv. On site-housing provided to employees shall comply with all applicable federal, state, and local laws and regulations.

(e) All cultivators shall, at the time of the application for a cultivation permit, include a Processing Plan with all of the following:

i. Summary of Processing Practices.

ii. Description of location where processing will occur.

iii. Estimated number of employees, if any.

iv. Summary of Employee Safety Practices.

v. Description of toilet and handwashing facilities.

vi. vi. Description of plumbing and/or septic system and whether or not the system is capable of handling increased usage.

vii. Description of source of drinking water for employees.

viii. Description of increased road use resulting from processing and a plan to minimize that impact.

ix. Description of on-site housing, if any.

(12) Performance Standards for Manufacturing Activities:

(a) Compliance with CAL/OSHA, OSHA regulations.

(b) Compliance with State and local building regulations, including the California Building Code (CBC) and the California Fire Code (CFC).

(c) A Security Plan that addresses how the following measures shall be implemented or complied with:

(i) Security cameras shall be installed and maintained in good condition, and used in an on-going manner with at least 240 concurrent hours of digitally recorded documentation in a format approved by the Planning Commission. The cameras shall be in use 24 hours per day, 7 days per week. The areas to be covered by the security cameras shall include, but are not limited to, the public areas, processing areas, storage areas, employee areas, all doors and windows, and any other areas as determined to be necessary by the Planning Commission.

(ii) The facility shall be alarmed with an audible interior and exterior alarm system, unless waived for extenuating circumstances by the Planning Commission that is operated and monitored by a recognized security company, deemed acceptable by the Planning Commission. Any change in the security company shall be subject to the approval of the City Manager or his designee. All current contact information regarding the medical cannabis facility's security company shall be provided to the City Manager or designee.

(iii) Entrance to the extraction areas and any cannabis storage areas shall be locked at all times, and under the control of facility staff.

(iv) Medical cannabis shall be stored in buildings that are completely enclosed, and in a locked vault or safe, or other secured storage structure which is bolted to the floor or structure of the premises.

(v) Windows and roof hatches of the premises shall be secured from the inside with effective means so as to prevent unauthorized entry, and shall be equipped with latches or a similar mechanism that may be released quickly from the inside to allow exit in the event of emergency in compliance with all applicable building provisions in the Code.

(d) If using CO_2 in processing, a professional grade closed-loop CO_2 gas extraction system rated to a minimum of fifteen thousand (15,000) pounds per square (PSI) is required for every vessel in the system.

(e) Extraction processes shall use a commercially manufactured professional grade closed-loop extraction system designed to recover the solvents and built to codes of recognized and generally accepted sound engineering practices, such as (i) The American Society of Mechanical Engineers (ASME); (ii) American National Standards Institute (ANSI); (iii) Underwriters Laboratories (UL); or (iv) The American Society for Testing and Materials (ASTM).

(f) Volatile extraction operations shall occur in a spark-proof, explosion-proof room equipped with evacuation fans and lower explosive limit (LEL) detectors.

(g) Carbon filter fans or equivalent superior filters/scrubbers shall be required to minimize or eliminate odor discharges to neighboring properties.

(h) A Waste Management/Disposal Plan shall be submitted describing any produced wastes, including by-products, recycling, reusing, recovery, storage, diversion and handling and disposal.

(i) Manufacturers of edibles shall comply with the regulations in the California Health and Safety Code, which includes the California Retail Food Code administered by the California Department of Health Services - Food and Drug Branch, California Department of Food and Agriculture and the County Department of Environmental Health.

(j) Comply with any special conditions applicable to that permit or parcel which may be imposed as a condition of the required Conditional Use Permit.

(13) Performance Standards for Testing Laboratories

(a) The facility shall be alarmed with an audible interior and exterior alarm system, unless waived for extenuating circumstances by the Planning Commission that is operated and monitored by a recognized security company, deemed acceptable by the Planning Commission. Any change in the security company shall be subject to the approval of the City Manager or his designee. All current contact information regarding the medical cannabis facility's security company shall be provided to the City Manager or designee.

(b) Entrance to the lab area and any cannabis storage areas shall be locked at all times, and under the control of facility staff.

(c) Medical cannabis shall be stored in a secured and locked room, vault or safe, or other secured storage structure which is bolted to the floor or structure of the premises.

(d) Windows and roof hatches of the premises shall be secured from the inside with effective means so as to prevent unauthorized entry, and shall be equipped with latches or a similar

mechanism that may be released quickly from the inside to allow exit in the event of emergency in compliance with all applicable building provisions in the California Building Code.

(e) All laboratory testing facilities shall comply with Sections 19341 through 19345 of the California Business and Professions Code.

(f) Comply with any special conditions applicable to that permit or parcel which may be imposed as a condition of the required Conditional Use Permit.

(14) Performance Standards for Dispensaries

(a) The facility shall be alarmed with an audible interior and exterior alarm system, unless waived for extenuating circumstances by the Planning Commission that is operated and monitored by a recognized security company, deemed acceptable by the Planning Commission. Any change in the security company shall be subject to the approval of the City Manager or his designee. All current contact information regarding the medical cannabis facility's security company shall be provided to the City Manager or designee.

(b) **Security cameras shall be installed and maintained in good condition, and used in an on-going manner with at least 240 concurrent hours of digitally recorded documentation in a format approved by the Planning Commission. The cameras shall be in use 24 hours per day, 7 days per week. The areas to be covered by the security cameras shall include, but are not limited to, the public areas, processing areas, storage areas, employee areas, all doors and windows, and any other areas as determined to be necessary by the Planning Commission.**

(c) Entrance to the any cannabis storage areas shall be locked at all times, and under the control of facility staff.

(d) Medical cannabis shall be stored in a secured and locked room, vault or safe, or other secured storage structure which is bolted to the floor or structure of the premises.

(e) Windows and roof hatches of the premises shall be secured from the inside with effective means so as to prevent unauthorized entry, and shall be equipped with latches or a similar mechanism that may be released quickly from the inside to allow exit in the event of emergency in compliance with all applicable building provisions in the Code.

(f) No dispensing location for the collective shall be open between the hours of 8:00 p.m. and 9:00 a.m. on any given day.

(g) Only qualified patients, as defined in Section 11362.7 of the Health and Safety Code are allowed in dispensaries.

(h) Medical cannabis may not be inhaled, smoked, eaten, ingested, vaped, or otherwise used or consumed at the premises and/or location.

(i) The sales of pipes, including water pipes and other paraphernalia are prohibited.

(j) In addition to the labeling requirements of Section 19347 of the Business and Professions Code, all medical cannabis shall be packaged in an opaque childproof container which shall be accompanied by a leaflet or insert that clearly states the following:

(i) The complete legal name of the qualified patient who will be using the medical cannabis;

(ii) The name, address and on-site landline telephone number of the dispensary;

(iii) The amount of medical cannabis in the container;

(iv) The name of the attending physician recommending the use of medical cannabis for the qualified patient;

(v) The date the medical cannabis was provided;

(vi) A list of the chemicals and or substances that were used during the processing of the medical cannabis;

(vii) All necessary health and safety warnings, including, but not limited to direction that the medical cannabis be stored in a clean and dry place and out of the reach of children; and

(viii) A statement that the City of Rio Dell neither warrants nor guarantees the quality or safety of the medical cannabis contained therein.

(k) All edible medical cannabis products sold within the City of Rio Dell shall be placed in opaque packaging, without photos or images of food on the label. Packaging that makes the edible product attractive to children or imitates candy is not allowed. Edible medical cannabis products shall not imitate commercially produced goods marketed to children. The edible product must be accompanied by a leaflet or insert that clearly states the source/provider of the food production in addition to all of the information required by Subsection 17.30.095(14)(i).

(l) A sign shall be posted in a conspicuous location inside the premises advising the following: "Both the sale of cannabis and the diversion of cannabis for nonmedical purposes are violations of state law. The use of cannabis may impair a person's ability to operate a motor vehicle or heavy machinery. Loitering at the location of a medical cannabis collective for an

illegal purpose is prohibited by California Penal Code Section 647(h). This collective is registered in accordance with the laws of the State of California and the City of Rio Dell."

(m) Dispensaries shall be located at least 1000 feet from any school.

(15) Term of Conditional Use Permit; Inspections.

(a) Any Conditional Use Permit issued pursuant to this section shall expire after one (1) year after date of issuance, and on the anniversary date of such issuance each year thereafter, unless the required compliance inspections have been conducted and the permitted site has been found to comply with all conditions of approval.

(b) If the inspector or other City official determines that the site does not comply with the conditions of approval, the inspector shall serve the permit holder with a written statement identifying the items not in compliance, and the action that the permit holder may take to cure the non-compliance, or file an appeal within ten (10) days of the date that the written statement is delivered to the permit holder. Personal delivery or mailing the written statement to the mailing address listed on the application by regular mail, plus three (3) days after date of mailing, shall constitute delivery. The permit holder may request a reinspection to determine whether or not the permit holder has cured all issues of non-compliance. Failure to request reinspection or to cure any items of noncompliance shall terminate the Conditional Use Permit and License, immediately upon the expiration of any appeal period, or final determination of the appeal if an appeal has been timely filed.

(c) The City shall notify any state license authority, as defined by the MMRSA, whenever the Conditional Use Permit and License has been revoked or terminated.

(16) Appeal of Annual Inspection Determination

Within ten (10) business days after delivery of the statement of non-compliance, the determination by the inspector that the site is or is not in compliance may be appealed by any interested party to the Planning Commission. The appeal shall be made, in writing, on a form provided by the City. The fee for filing the appeal is based on the adopted fee schedule in effect at the time of the appeal.

(a) The appeal shall be heard by the Planning Commission within thirty (30) days following the filing of the appeal. The Planning Commission shall render a written ruling on the appeal within three (3) business days following the hearing.

(b) The decision of the Planning Commission may be appealed to the City Council in accordance with Section 17.35.050 of the Rio Dell Municipal Code. If a timely appeal to the City Council is not filed, the ruling by the Planning Commission shall be final.

Section 2. Severability

If any provision of the ordinance is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.

Section 3. Limitation of Actions

Any action to challenge the validity or legality of any provision of this ordinance on any grounds shall be brought by court action commenced within ninety (90) days of the date of adoption of this ordinance.

Section 4. Effective Date

This ordinance shall not become effective, or otherwise have the force and effect of law, unless and until the citizens of the City of Rio Dell adopt and approve a business tax upon persons engaged in commercial cultivation, processing, manufacturing, testing, and distribution of cannabis for medical use at the November 8, 2016 General Election. This ordinance shall become effective, if at all, on the date the ordinance imposing the business tax becomes effective.

I HEREBY CERTIFY that the forgoing Ordinance was duly introduced at a regular meeting of the City Council of the City of Rio Dell on May 10, 2016 and furthermore the forgoing Ordinance was passed, approved and adopted at a regular meeting of the City Council of the City of Rio Dell, held on the July 19, 2016 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

_____
Frank Wilson, Mayor

ATTEST:

I, Karen Dunham, City Clerk for the City of Rio Dell, State of California, hereby certify the above and foregoing to be a full, true and correct copy of Ordinance No. 342-2016 which was passed, approved and adopted at a regular meeting of the City Council of the City of Rio Dell, held on the July 19, 2016.

_____
Karen Dunham, City Clerk, City of Rio Dell