AGENDA
RIO DELL CITY COUNCIL
CLOSED SESSION – 5:30 P.M.
REGULAR MEETING - 6:30 P.M.
TUESDAY, APRIL 4, 2017
CITY COUNCIL CHAMBERS
675 WILDWOOD AVENUE

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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. ANNOUNCEMENT OF ITEMS TO BE DISCUSSED IN CLOSED SESSION AS FOLLOWS:

1) 2017/0404.01 - **Conference with Legal Counsel – Anticipated Litigation**
Significant Exposure to Litigation Pursuant to §54956.9(d)(2): One Potential Case: Facts and Circumstances Known to Potential Plantiff/Adverse Party, John Clark, Street Drainage Issue

2) 2017/0404.02 - **Conference with Labor Negotiator – City Manager**
Employee Organizations: Rio Dell Employees Association Rio Dell Police Officers Association and all Contract Employees (Pursuant to §59457.6)

D. PUBLIC COMMENT REGARDING CLOSED SESSION

E. RECESS INTO CLOSED SESSION

F. RECONVENE INTO OPEN SESSION – 6:30 P.M.

G. ORAL ANNOUNCEMENTS

H. PLEDGE OF ALLEGIANCE

I. CEREMONIAL MATTERS

J. 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.

K. 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) 2017/0404.03 - Approve Minutes of the March 21, 2017 Regular Meeting **(ACTION)** **1**

2) 2017/0404.04 – Approve Bid for the 2017 Streets Resurfacing Project and Authorize the City Manager to Execute **(ACTION)** **17**

3) 2017/0404.05 - Approve Change Order No. 1 and Change Order No. 2 for the Metropolitan Wells Project and Authorize the City Manager to Execute **(ACTION)** **20**

L. ITEMS REMOVED FROM THE CONSENT CALENDAR

M. SPECIAL PRESENTATIONS/STUDY SESSIONS

1) 2017/0404.06 - Presentation – General Financial and Economic Information for Development and Prioritization of the City's 2017/18 FY Budget Cycle **(RECEIVE & FILE)** **28**

N. SPECIAL CALL ITEMS/COMMUNITY AFFAIRS

1) 2017/0404.07 - Amendment to Committee Assignments for 2017
(DISCUSSION/POSSIBLE ACTION) **36**

O. ORDINANCES/SPECIAL RESOLUTIONS/PUBLIC HEARINGS

1) 2017/0404.08 - Approve Resolution No. 1329-2017 Submitting to the Voters Proposed Ordinance No. 354-2017 adding Section 5.40 to the Rio Dell Municipal Code (RCMC) Creating a "Cannabis" Business Tax for Certain Commercial Cannabis Activity and Requesting the Board of Supervisors of Humboldt County to Consolidate said Election with the Statewide General Election and directing the City Clerk to take any and all actions necessary under law to prepare for and conduct the election
(DISCUSSION/POSSIBLE ACTION) **39**

2) 2017/0404.09 - Reintroduction of Ordinance No. 355-2017 Amending Section 17.30.020 "Accessory Uses and Buildings" of the Rio Dell Municipal Code (RCMC) to include Cargo/Shipping Containers used as Accessory Structures
(DISCUSSION/POSSIBLE ACTION) **61**

3) 2017/0404.10 - Introduction and first reading (by title only) of Ordinance No. 356-2017 Amending Chapter 13.05 Water Rates and Regulations to require that all residential dwellings, Commercial and industrial buildings within the City be required to connect to the City's Water System and have fees and charges established by Resolution
(DISCUSSION/POSSIBLE ACTION) **74**

P. REPORTS/STAFF COMMUNICATIONS

Q. COUNCIL REPORTS/COMMUNICATIONS

R. ADJOURNMENT

The next regular City Council meeting is scheduled for
Tuesday, April 18, 2017 at 6:30 p.m.

RIO DELL CITY COUNCIL
REGULAR MEETING
MARCH 21, 2017
MINUTES

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

ROLL CALL:	Present:	Mayor Wilson, Mayor Pro Tem Johnson, Councilmembers Garnes, Marks and Strahan
	Others Present:	(Closed Session) City Manager Knopp and City Attorney Gans
		(Regular Meeting) City Manager Knopp, Finance Director Woodcox, Community Development Director Caldwell, Wastewater Superintendent Trainee Yaple, City Clerk Dunham and City Attorney Gans
	Absent:	Chief of Police Hill

PUBLIC PRESENTATIONS

Nick Angeloff provided a brief report on the Chamber of Commerce meeting that took place earlier in the day and said the seniors will begin having monthly meetings at the Chamber office; said they have already started planning for Christmas decorations and hope to have the addition of Christmas banners along Wildwood Ave. along with lights and will likely be asking for assistance from public works staff on installation. He said he will continue to keep the Council informed of any planning activities.

CONSENT CALENDAR

Motion was made by Johnson/Garnes to approve the consent calendar including approval of minutes of the March 7, 2017 regular meeting; approval of Resolution No. 1325-2017 adopting the Budget Calendar for FY 2017/18 as amended; and approval of Pay Request No. 2 to Wahlund Construction in the amount of $111,092.82 for work related to the Metropolitan Wells Project. Motion carried 5-0.

SPECIAL PRESENATIONS/STUDY SESSIONS

Presentation Related to Cannabis Tax Measure

City Manager Knopp provided a staff report and said at the March 7, 2017 meeting, the Council received a draft Ordinance related to a proposed tax system for Cannabis Activities in the City almost identical to the proposed Ordinance submitted in 2016. He noted that with discussion of different tax options, staff was directed to return to Council to discuss further options.

Staff presented the following six (6) potential tax options for review:

- Option 1: Initial rate of $2.00 per square foot for cultivation and 2% of gross receipts.
- Option 2: Initial 2% tax on gross receipts up to 10% on all license types.
- Option 3: Match the County's cultivation tax rate at $0.00 to $5.00 per square foot initially set at $2.00 per square foot for mixed light and $3.00 per square foot for indoor without the $1.00 per square foot for outdoor cultivation since Rio Dell doesn't allow any outdoor cultivation.
- Option 4: Apply both square footage and gross receipts to all categories.
- Option 5: Exempt lab testing from the tax proposed under Option 1.
- Option 6: Add a weight tax to cultivation as presented under Option 1 similar to the State's tax method.

City Manager Knopp stated for clarification that there was some discussion at the last meeting regarding any agreements already made and agreed upon by the City Council in 2016. He said while there was discussion and a general consensus, the City Council did not agree to a tax and actually rejected as a body, placing the tax measure on the ballot. He pointed out that ultimately the tax must be approved by the voters; not the City Council.

He said another thing he wanted to make clear is that staff inadvertently stated that medical cannabis would be exempt of the Bradley Burns Tax which is incorrect. He clarified that medical cannabis is however; exempt from sales tax; not the 15% excise tax.

Discussion continued regarding the options as presented.

City Manager Knopp pointed out that the six (6) options are certainly not exclusive and staff is looking for direction from Council on all potential options. He referred to Option 4 and said another option to consider would be to modify it so the tax would apply to square footage "or" gross receipts rather than "and" gross receipts which would allow more flexibility.

He said typical cultivation activities could be taxed on square footage then pull aside some of the more niche aspects of cultivation such as a retail nursery who is then selling directly to the public or other vendors in the chain. He said that could be charged a business tax without the worry of charging the square footage. He said another example of a niche aspect would be processing itself so while there is no specific State license type for this activity, it is likely it will occur so instead of charging that activity by the square foot the independent processor could be charged by gross receipts as well. He noted that this would one way to allow the City Council additional flexibility with regard to the tax and in changing the regulatory environment by making sure the Council can only adjust the tax once annually and only by a certain percentage of the total tax. He said this also provides some assurances to the tax payers that the system will be stable and predictable and there could only be one type of taxation applied to each specific licensing category or set type.

City Manager Knopp said staff is looking for a consensus of the Council on each of the categories beginning with cultivation so staff can work with the City Attorney on a draft ordinance to bring back to the Council.

Councilmember Garnes agreed with the proposed modification to Option 4 changing "and" to "or" and said taxing square footage and gross receipts seems like double taxation whereas; changing "and" to "or" allows the most flexibility.

Mayor Wilson and Councilmember Marks agreed.

Mayor Pro Tem Johnson also agreed and said as he stated before, he doesn't want to deviate very far from the original scheme of taxation. He said Option 4 as modified comes close to what the Council talked about previously and suggested it be identified perhaps as Option 4-A for simplicity purposes.

Councilmember Strahan said another suggestion would be to have it read "and/or" and said she certainly doesn't want to double tax anyone. She said she would like the Council to consider changing the square footage tax from $0.00 - $5.00 to $0.00 to $10.00. She commented that initial $2.00 a square foot is much too low and is probably less than 1% of what is being produced. She said $5.00 would represent closer to 3% and would be a reasonable amount to ask. She said $10.00 is at a 5% mark.

Community Development Director Caldwell passed out a handout prepared by staff showing a table based on estimated production at approximately 130,000 square feet of cannabis cultivation. He said in looking at the top table, with the selling price of $1,000 per pound producing 20 grams per sq. ft., a 2% tax on gross revenue would generate roughly $458,000 based on four (4) cultivation cycles per year; at $2.00 per square foot, the City would receive $260,000. He said the lower table, based on cannabis selling at $800/lb. and a tax rate of $3.00 a square foot, the city would actually generate $390,000, making more money and making it much easier to administer because wouldn't have to wait until the end of the year for the cultivator's tax returns to receive the money. He added that the tax could be required to be paid up front which would be advantageous to the City.

He said that is also assuming that there are no issues with cultivation such as a mite infestation that would reduce the cities revenue which is something the City Council needs to take into consideration.

Mayor Wilson asked if these amounts would be generated for each cycle.

Community Development Director Caldwell explained the calculations are based on one annual fee based on square footage and if the City Council wanted to charge per cycle it would actually be four (4) times that amount.

Councilmember Strahan referred to the top table and questioned the estimated selling price of $1,000 per pound.

Community Development Director Caldwell noted that the price could essentially go down to $400 or $500 per pound depending on the market.

Councilmember Strahan commented that Humboldt County is known to grow the best cannabis around and what we're talking about is a high grade medical cannabis production. As such, she said she thinks the estimated $1,000 per pound is too low and presented calculations based on $2,000 per pound. She said she is still in favor of a tax of $5.00 per square foot per canopy based on four (4) cycles per year. She said she based her calculations on a selling price of $2,000 per pound and also calculated in the possibility of mites etc. She indicated that if the Council wants to go with a square foot tax annually she would be willing to consider it but thinks the tax should then be $25.00 per square foot annually for cultivation not including processing.

Mayor Pro Tem Johnson said at the risk of restating comments from the previous meetings, he reiterated that the Council represented to Glenn White and other stakeholders a tax rate similar to Option 1. He said the Council passed a Land use Ordinance and it got a lot of people interested in developing in the City. Now it appears the City might actually have $50 or $60 million in investments coming in.

He said in part, based upon what the City Council represented to those investors was that the rate would be low and that the Council would not be changing the game mid-stream. He said as such, he is totally against changing the rate now. He said it is not fair to the stakeholders or the City and feels it presents the City Council as charlatans and he doesn't think that is what the City is about. He said he feels the tax proposed by Councilmember Strahan is robbery and added that the people taking the risks should be getting the reward and a fair return on their investments. He said with that being said, he is basically at the opposite end of the spectrum from his colleague on this particular issue.

Councilmember Marks commented that in looking at Option 4, it seems too complicated so he might be inclined to agree with Mayor Pro Tem Johnson to keep it simple and collect a "slow nickel as opposed to a fast dime".

Councilmember Garnes stated that she is in full agreement with Mayor Pro Johnson and that changing the tax rate mid-stream is wrong and would be thoroughly ashamed of the Council for doing so.

Mayor Wilson said after the last meeting, the thing that caught him off-guard was changing the tax mid-stream. He said the Council voted down placing the tax measure on the ballot last November by a vote of 3-2 and said there was never any discussion on how to vote on the tax.

He said the draft ordinance was brought forward and as a City Council only voted down the ordinance.

He said he understands there are 16 or so interested developers and he had requested the stakeholders be in attendance to discuss the tax structure however; Glenn White and Steve Ambrosini where the only two developers present. He commented that no applications have been submitted yet which also concerns him. He said he would be in support of Option 4 but down the road would like to see specific language regarding processing addressed.

Discussion continued regarding subset categories.

Councilmember Garnes commented that Option 4 modified to change "and" to "or" will also allow for subsets.

City Manager Knopp explained that the Ordinance could be crafted to subset certain categories and have flexibility to levy the tax either by square footage or gross receipts but not both. He said it seems the Council is in agreement with Option 4 with Councilmember Strahan suggesting a higher tax rate and asked the Council to come to a consensus and provide staff direction on the draft ordinance.

He pointed out that increasing the tax would put the City at a competitive disadvantage with the County and would also create a disincentive for perspective developers. Also, staff's recommendation from the beginning has been to set a tax rate similar to the County's.

Mayor Wilson commented that one of the things he wanted to discuss is setting up a broad range of taxes for flexibility so no one is double taxed. He said the first year operations will not essentially generate any revenue because the tax won't even go on the ballot until November 2017. He said he would like all the stakeholders to understand that the Council's desire is to be able to look at the entire picture objectively and create a tax schedule that benefits both the stakeholders and the City. He pointed out that the stakeholders are positioned to make a lot of money with this industry but it is a joint venture with the City who also has a stake in this and needs to make more than $390 a year to make it worthwhile.

Councilmember Marks said he would like to hear from the stakeholders before making a final decision.

Mayor opened it up to public comment.

Glenn White addressed the Council and said he and everyone else knows that cultivation has gone on around here for many years. He said he is a housing developer and is coming here and has already invested in property here and has businesses in Garberville including a day spa which is wife runs. He noted that they are not actually cultivators and are not proposing to

have any cultivation operations at the Eel River Sawmill site but are proposing manufacturing, testing, possible distribution and would also like to have a retail center. He said their real focus will be on creating a health and wellness center.

He said as a cultivator listening to what the Council is proposing, 22,000 sq. ft. of cultivation would cost each cultivator $100,000 a year for the permit at $5.00 a square foot, and potentially that would be required to be paid upfront which would be really tough for them. He noted that the problem with this is that it is such a gamble for these cultivators because of the unstable market and other factors.

He said the City of Los Angeles just had an emergency change to their ordinance and said it was Proposition D that controlled dispensaries limiting the number to 135. He explained the recent change was to take advantage of the retail market coming in 2018 and allow for 1,000 more retail outlets which will increase taxes significantly. Also, Desert Hot Springs proposed an upfront tax of $150,000 which created a disincentive for developers.

He added that the market is all up to supply and demand and there are huge risks for cultivators in this industry because until the product is sold they don't realize any profits. He pointed out that they are dedicated to be here and want to see the City develop in a positive way and wants to contribute to the City even without the tax in place. He said as far as manufacturing, it's all going to be monitored through the track and trace program and will be much easier to follow than cultivation activities. As such, he said it seems that a tax based on gross receipts may be more realistic but he can also see why the City would want to require an upfront tax.

Rich Newman said he thought the subject was all about medical marijuana and said if the taxes are raised, the cost will be passed on to the consumer and pretty soon medical marijuana will be as high as other drug companies. He said there are people who truly need medical marijuana and urged the Council to think of those people. He said he also doesn't want Rio Dell to be thought of as just a place to come and get high.

Steve Ambrosini address the Council and said his plans involve three (3) or possibly four (4) phases; including cultivation, processing and extractions and said his goal is to basically have a one-stop shop. He said he understands the tax for large companies coming in to do one segment such as extractions but for the small guys like him trying to bring in multiple type businesses and required to pay a lot of taxes upfront or at the end of the year is difficult.

He said it is almost impossible to get upfront financing for these types of businesses unless you are able to resource it out to other investors so requiring $100,000 upfront to the City is unreasonable. He noted that he spent two (2) years researching prices throughout the state and the current price for indoor marijuana is at $2,000 per pound or less which results to $1,800 to the grower after paying for processing, and that is only if the product is of very high quality and organic and that doesn't include overhead costs which could be up to 50%.

He suggested for indoor cultivation from processing to edibles perhaps setting up a sliding scale initially then wait and see how things evolve. Basically, he would recommend starting with Stage 1 then regulate the tax based on what is happening. He said the worse thing the City could do is over tax the businesses up front because only those big stakeholders out of the area will be able to afford to operate and it will virtually run out the small local cultivators. He indicated that he has renderings to present to staff and the Council and will be obtaining bids on his project very soon.

Julie Woodall commented that many jurisdictions offer perks to entice new business and that she likes Option 4-A because of the flexibility it provides. She pointed out that it is not up to these developers to cure all of the City's problems and the City needs to help itself. She mentioned the new business going in at the former Wildwood Feed (Roots 101) and said it will hopefully make a difference in the City as far as sales tax revenue.

Dennis Wendt stated that he is not involved in the cannabis industry but he does know that the price has gone down and that high taxes will run people off. He said he will be constructing a building for one of the developers and he will have $1 million invested in the structure and improvements alone, not including the land or permits. He said these developers will be investing a lot of money and the City can't expect to have all its problems solved in one year. He suggested going back to Mayor Pro Tem Johnson's idea and be reasonable and keep in mind that the City is not putting out any investment. He added that over-taxing these developers will not help the City.

Sharon Wolff pointed out that the City of Rio Dell already has a higher sales tax tan the surrounding areas so already has one disincentive for developers to come here. She said the higher tax level being discussed seems like a passive aggressive way of getting rid of an ordinance that maybe some of the councilmembers didn't want anyway.

Nick Angeloff said as President of the Chamber of Commerce, he would like to see the lowest taxes possible but from a business perspective what we're trying to create here is basically a closed system with horizontal integration from agriculture production to transportation out of there. He said that closed system in and of itself when considering manufacturing being equal to whatever the City is taxing for cultivation should be considered since they don't have to deal with transportation costs since basically everything will be done basically on site which is an incentive in itself. Also by not taxing businesses upfront, it gives businesses a year before they actually have to pay any taxes. He noted that the County doesn't have these taxes assessed on manufacturing or testing and that would be mitigated with all activities taking place at one basic location. He said the City has the opportunity to keep these activities consolidated and get a horizontally integrated group out there that can supply each other.

He said Option 4 sounds good but creating the unknown is the worst thing the City can do for a City.

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

Councilmember Strahan said regarding upfront taxes she understood there would be no upfront taxes with the square footage but would be paid on a monthly basis. She understood the only upfront costs to the City would be building permit fees.

City Manager Knopp stated for clarification that there is flexibility in the method in which how the tax is paid.

Councilmember Strahan noted that as far as perks or incentives, pointed out that there will be no taxes the first year which is a great deal for the developers.

After further discussion the consensus of the Council was to approve Option 4-A with the modification changing "and" to "or" regarding the square footage tax or gross receipts and to direct staff to work with the City Attorney to draft an ordinance and resolution and bring it back to the Council at their April 4, 2017 meeting for further discussion and consideration with hopefully more stakeholders present.

Mayor Wilson announced a change in the agenda order and moved Resolution 1328-2017 up to allow the City Attorney to be excused from the remainder of the meeting.

Approve Resolution No. 1328-2017 Approving Award of Bid to Parker & Son in the amount of $55,977.00 for the 2017 Asphalt Pavement & Crack Sealing Project

City Manager Knopp provided a staff report and said the 2016-2017 budget allocated $80,000 towards pavement rehabilitation projects. He said that RFP's were sent out for the 2017 Asphalt Pavement Repair & Crack Sealing Project in which two bids were received. He said the bids included one for $55,977.00 from Parker & Son, Inc. and another for $89,688.00 from GR Sundberg, Inc.

He said there was a slight problem in that Parker & Son, Inc. was required to submit documents under "Qualifications of the Bidder" and failed to submit the information in the bid package. He said the City received a protest from GR Sundberg, Inc. protesting the omission but Parker & Son did then provided the documents as required. He noted that the City Attorney indicated that the City has the right to waive inconsequential deviations in a bid provided the deviation did not give the bidder an unfair advantage over other bidders. He said since the failure to include the information initially did not affect the amount of the bid, the matter was considered inconsequential.

City Manager Knopp further reported that staff reviewed the qualifications of Parker & Son, Inc. and determined them to be the lowest responsible and responsive bidder.

He said staff's recommendation is to approve Resolution 1328-2017 awarding the bid for the project to Parker & son and to also waive as immaterial the bid irregularity, authorize the City

Manager to sign the Notice of Award and Contract Agreement, and establish the budget amount as $100,000 as amended.

Mayor Pro Tem Johnson directed a question to the City Attorney and asked if the Resolution as presented will protect the City against any legal action.

City Attorney Gans explained that there is no way to prevent someone from submitting a bid protest but clearly the City has the right to waive inconsequential deviations in a bid and this fits into that category. He added that the lacking material was simply resume information and did not affect the scope of the bid. It clearly appears to be a bid defect which the City Council has the right to waive as stated in the resolution.

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

There being no public comment, the public hearing closed.

Motion was made by Johnson/Garnes to approve Resolution No. 1328-2017 awarding the bid for the 2017 Asphalt Pavement Repair & Crack Sealing Project to Parker & Son, Inc. in the amount of $55,977.00 and waive as immaterial the bid irregularity; authorize the City Manager to sign the Notice of Award and Contract Agreement for up to $55,977.00 and further authorize any change orders during the project within the approved budget amount; and establish the budget amount as $100,0000 (as amended by Resolution No. 1327-2017) which includes $55,977.00 for this project, $32,700.00 for Slurry Sealing (not related to his particular bid or resolution), and $11,323.00 as contingency. Motion carried 5-0.

City Attorney Gans left the meeting at this time, 7:56 p.m.

SPECIAL CALL ITEMS/COMMUNITY AFFAIRS

Request from Glenn White for the Sale of CBD/THC Infused Products

Community Development Director Caldwell provided a staff report and said a request was received from the Glenn White Group requesting the sale of medical CDB/THC infused cannabis products such as salves and oils at their proposed Health and Wellness Center. He said as the Council is aware, this type of activity is considered retail sales/dispensing and dispensaries are not allowed in the City. He said if the Council is receptive to allowing the sale of medical CBD/THC infused cannabis products at their facility, the Medical Cannabis Land Use Ordinance would need to be amended as well as Chapter 5.35 of the Rio Dell Municipal Code (RDMC).

Glenn White addressed the Council and said their hope is to be able to administer and sell Holistic Health and Beauty Care products consisting of CBD/THC infused oils, gel tablets, topical lotions, make-ups, creams, sublingual's, etc. He noted that all of these products will be

marketed and packaged for Medical Use Only and there will be no sales of open cannabis flowers or edibles.

He said the plan is to construct three (3) separate facilities with the Health & Wellness Day Spa the only one that will be open to the public. He noted that once the Cannabis Activity Center becomes operational, they believe the Wellness Center will become a main focal point and tourist attraction for the City.

Mayor Pro Tem Johnson said last year when the Council was discussing whether or not to allow dispensaries in the City, he was a proponent of allowing one (1) dispensary and he thinks this would be an appropriate addition to the Health & Wellness Center.

Councilmember Marks asked if the Center would be open to members only and questioned the reason for combining CBD's with THD's.

Glenn White said that the Center will be limited to members only and will focus only on health and wellness driven by the medical use of Cannabis products and bi-products. He said with regard to combining the components, there are certainly more medical benefits with blending small amounts of THC with CBD's.

Steve Ambrosini further explained if a person were to use a tenture containing primarily only CBD's then a tincture including THC as a booster, it will go to the root of the medical problem and without the THC component it doesn't solve the problem.

Mayor Wilson commented that he understands and supports what Mr. White is proposing to do but he personally can't support the use as a dispensary because it complicates the issue. He said if there is a way to include language in the ordinance to allow this and at the same time protect potential abuse of dispensaries in the City he would be willing to consider approval of the ordinance amendment.

Glenn White said they would like to be able to manufacture products and provide them to patients but is unclear as to how to delineate between the sale of these medical cannabis products and a dispensary. He agreed that there are a lot of people that use medical marijuana as an excuse to get high but learned first-hand of the medical benefits by using a roll-on product on his shoulder that really did relieve the pain he was experiencing.

The consensus of the Council was to table the item to allow staff to work with the City Attorney or possibly Mr. White's attorney and the Planning Commission to craft appropriate language that will not overly expose the City to liability then bring it back to the Council for further discussion and consideration.

Julie Woodall asked if there are any existing spas similar to what they are proposing.

Glenn White noted that there are other spas but they also use cannabis flowers and that he is not aware of any spas like what they are proposing. He added that their true goal is to bring health and wellness to the City.

Community Development Director Caldwell commented that this could be the first spa of this type which would be great exposure for the City.

Nick Angeloff commented that the Planning Commission had considered allowing one (1) dispensary in the City but feared that they would eventually end up all over the City. He said the Council could consider limiting the number of dispensaries to one (1) dispensary, limit the sale of only non-flowering products, and to require a report regarding clinical studies related to the use of the products.

Renaming of Eel River Sawmill Site

City Manager provided a staff report and said at the request of Councilmember Strahan at the last meeting; staff is bringing the matter of renaming the former Eel River Sawmill site.

He said that historical names associated with the site and its immediate surroundings include but are not limited to: Tokemuk, Eel River, McDiarmid's Prairie, Robinson's Ferry, Metropolitan Stone, Canyon and Eel River Sawmills.

He said other associates words mentioned to possibly be included in the name are Rio Dell, Humboldt, Wildwood, Eagle Prairie, Lorenzo Painter, Seth Kinman, Northern California, Fossil, Nanning Creek, Scotia Bluffs, Redwood, North Coast, Northwestern Pacific and Monument.

He also indicated that based on feedback from stakeholders, it appears the desire is to include in the name "business park" as opposed to "industrial park" or "cannabis park" as well as avoiding direct usage of the words "Marijuana" or "Cannabis.

City Manager Knopp then reviewed some optional names for the site such as:

- Rio Dell Business Park
- Eel River Business Park
- Humboldt Rio Dell Business Park
- Metropolitan Business Park
- Tokemuk Business Park
- Canyon Park
- Fossil Bluffs Business Park
- Wildwood Place
- Redwoods Gateway

He noted that once a name is identified, staff can work with a graphic artist to come up with a logo and potential designs associated with the name and site related to the site and bring it back to Council for formal selection and approval.

Councilmember Garnes stated that she likes the idea of *Humboldt Rio Dell Business Park* as it identifies the brand and incorporates Rio Dell with the brand.

Councilmember Marks and Mayor Pro Tem Johnson agreed.

Councilmember Strahan said she likes *Eel River Business Park* as well as *Fossil Bluffs Business Park*. She suggested as another alternative *Thompson Business Park* because of all the work former Councilmember Thompson put into this matter.

Mayor Wilson preferred *Eel River Business Park*.

Councilmember Garnes commented that the idea is to try and elevate Rio Dell and using any other name puts Rio Dell second. She said "Humboldt" is also needed to be heard when going outside the area. She said adding *Rio Dell* to the name no longer makes the City the ugly stepchild to Scotia.

Mayor Wilson called for public comment on the subject.

Rich Newman commented that what Councilmember Garnes said makes sense and pinpoints the area as the Eel River Valley encompasses a large area.

Nick Angeloff said anywhere you go and mention "Humboldt" the assumptions are already there. He said as an archeologist perhaps it would be nice to name the park *Humboldt Rio Dell Canyon Park Business Park*.

Dennis Wendt urged the Council to be careful with regard to selecting a name for the park as there are a lot of good ideas out there and as far as the stakeholders, he didn't hear about this item on the agenda until today. He said another thought would be *Eel River Business Park of Rio Dell*.

Steve Ambrosini commented that if you tell someone from out of the area that you are from Fortuna they sometimes say and think Fontana whereas; if you say you're from Humboldt it gets their attention. He said the word "Humboldt" is very important as far as packaging and labeling and it would also be good to include "Rio Dell" in the name.

Glenn White pointed out that Rio Dell isn't as well-known as Humboldt County. He said Rio Dell is in the heart of Humboldt and products coming out of this area are top notch. He felt the word "Humboldt" and "Rio Dell" should be included in the name of the park.

Community Development Director Caldwell presented a conceptual rendition he did that referred to the park as "In the Heart of the Humboldt Nation." His idea was well received.

Julie Woodall suggested the name be kept short and be memorable such as "*Rio Dell in the Heart of Humboldt,*"

Mayor Pro Tem Johnson directed a question to Dennis Wendt and asked who typically names new subdivisions and other development projects.

Dennis responded that the developer usually names them and often time incorporates the names of people who have owned the property for years.

Mayor Pro Tem Johnson suggested staff contact the other stakeholders to see if they support Humboldt Rio Dell Business Park or something similar to that as a brand.

Authorize staff to purchase Vactor Trailer in the amount of $44,608.00
City Manager Knopp provided a staff report and said the City's old Vactor Truck has been in need of replacement for many years and the proposed Vactor Trailer from "Vacmasters" doesn't require a Class B driver's license like the current vactor truck since it will be towed behind a City utility truck.

He said the Council appropriated $45,000 in the FY 2016-2017 budget and as such there will be no required budget amendment to authorize the purchase.

Councilmember Strahan asked how often the vactor is used and if the current vactor truck is still in operation.

Water/Roadways Superintendent Jensen commented that the existing vactor truck is not in operation and the vactor trailer will definitely be used a lot.

Mayor Pro Tem Johnson commented that there is no end to the need of having a vactor system in the public works department.

Mayor Wilson called for public comment on the proposed purchase.

Dennis Wendt noted that a vactor truck or trailer is an important piece of equipment and that the City's existing truck came from the City of Fortuna. He said anytime you work on water or things out.

Mike Strahan agreed and said a vactor is invaluable especially when pumping out manholes as hazardous materials are subject to fines.

Motion was made by Johnson/Strahan to authorize the purchase of a Vactor Trailer from "Vacmasters" in an amount not to exceed $44,608.00. Motion carried 5-0.

Public Works Update
City Manager Knopp provided a brief overview of the Public Works Update as presented.

Mayor Pro Tem Johnson referred to the 5-year National Pollutant Discharge Elimination System (NPDES) Permit and said with Council approval would like to work with staff on the development of the next 5-year permit renewal. Council agreed.

Mayor Wilson thanked public works staff for doing a great job keeping everything running efficiently in lieu of the limited staff and difficult weather conditions.

Mayor Pro Tem Johnson referred to the *Top Capital Replacement Priority* contained in the report related to the concern with inflow and infiltration (I & I) at the end of Painter St. which has been a long-standing issue and said he would expect that project to be incorporated into the FY 2017-2018 budget as a priority.

ORDINANCES/SPECIAL RESOLUTIONS/PUBLIC HEARINGS

Approve Resolution No. 1327-2017 Budget Amendment for additional General Fund Streets Subsidy for Streets Repairs and Maintenance
City Manager Knopp provided a staff report and this item relates to the Asphalt Pavement & Crack Sealing Project and said as reported previously, the Council allocated $80,000 in the FY 2016-2017 Operating and Capital budget for priority City streets repairs and maintenance. He said after going through the bidding process, an additional $20,000 is being requested to fund the projects that have been determined to be high priority. He explained the $100,000 breaks down to $55,977 for the Paving Project, $32,700 for slurry sealing, and $11,323 for the project contingency.

Councilmember Strahan asked if this is related to the Safe Routes to School Project.

City Manager Knopp explained that this is an entirely different project and the request is to add $20,000 to the existing $80,000 budget for street repairs to complete some priority projects throughout the City.

Councilmember Strahan noted that some of the repairs are on the same streets as identified in the Safe Routes to School Project.

City Manager Knopp explained that the project does include some work on Davis St. but it is only for bike lanes.

Motion was made by Johnson/Garnes to approve Resolution No. 1327-2017 approving a Budget Amendment for additional General Fund Streets Subsidy for Streets Repairs and Maintenance. Motion carried 4-1; Councilmember Strahan dissented.

Approve Resolution No. 1324-2017 Budget Amendment for SLESF Funds for Purchase of Police Vehicles

Finance Director Woodcox provided a staff report and began by clarifying that this item doesn't actually require a budget amendment as stated because of recent notification by the State and as it turns out, the City has a good chance of being funded $20,000 in grant funding to assist with the purchase of two (2) police vehicles.

She noted that the total cost of the vehicles is $67,747 and allocations of $40,000 from the General Fund and $7,000 from the Realignment Grant fund have already been approved by the Council and the additional $20,000 is anticipated to be funded through USDA. She said because of the immediate need to replace two of the older police vehicles, staff inquired into the funding requirements under USDA and asked to expend the City's required matching funds prior to receiving the USDA grant funding and were informed that the City could make a vehicle purchase now without compromising the USDA funding.

She noted that no formal action is needed by the Council and the report is simply being reported as an update on the purchase of the vehicles.

REPORTS/STAFF COMMUNICATIONS

City Manager Knopp stated that he had no written report to submit at this time.

Finance Director Woodcox said she had nothing to report.

OTHER COUNCIL REPORTS

Mayor Pro Tem Johnson reported on his attendance at the last HCAOG meeting and said at the meeting it was announced that the improvements to the safety corridor between Eureka and Arcata was pushed back to around 2021. He said it also came out that there are six (6) interchanges/intersections between Eureka and /Arcata and the only one that showed a greater than normal number of accidents was at the Indianola cutoff which was reported at 135% of normal. He noted that the rest of them were reported at about 25-30% of anticipated accidents. He said the task force will be working on getting some kind of improvement money into the Indianola area to hopefully get some immediate improvements done to that area.

He also said he wanted to commend staff on the City Council packet for this meeting and said it included a lot of good information without a lot of fluff.

ADJOURNMENT

Motion was made by Johnson/Garnes to adjourn the meeting at 8:56 p.m. to the March 28, 2017 Joint Study Session with the Planning Commission. Motion carried 5-0.

_____
Frank Wilson, Mayor

Attest:

_____
Karen Dunham, City Clerk

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

April 4, 2017

TO: Rio Dell City Council

FROM: Kyle Knopp, City Manager

SUBJECT: Approval of Bid for the 2017 Streets Resurfacing Project and Authorize the City Manager to Execute

IT IS RECOMMENDED THAT THE CITY COUNCIL:

Approve of the bid results and authorize the City Manager to execute

BACKGROUND AND DISCUSSION

For many years, surrounding jurisdictions have conducted joint micro-sealing projects to preserve road surfaces. These projects have been widely considered as successful in enhancing street surfaces and preventing further deterioration of local roads at economical costs. The City of Rio Dell was invited to participate in the 2017 sealing project which is being coordinated by the City of Eureka and involves other cities and the County. Micro-sealing can be a cost effective way add 10-20 years of life onto a road surface. The City of Eureka conducted the open bid process on behalf of the partner agencies and the lowest responsive and responsible bidder was determined to be American Pavement Systems with a subcontractor of Apply-A-Line for pavement markings.

Estimates for the cost of the project were initially $32,700 however the bid came in slightly lower at $32,050 for all costs.

In the FY 2016-2017 budget, the Council prioritized some street repairs to aid in the longevity of the City's main arterial streets. On January 3, 2017 the Council received and approved the plan for both a pavement rehabilitation project and micro-sealing project. On March 21, 2017 the Council awarded the pavement rehabilitation project to Parker & Son Inc. which included preparatory work for this slurry seal. Also on March 21, 2017 the Council approved a budget adjustment resulting in the following project budget:

$32,700	Micro-sealing
$55,977	2017 Asphalt repair and crack sealing
$11,323	Contingency
$100,000	Total 2017 Pavement Repair

///

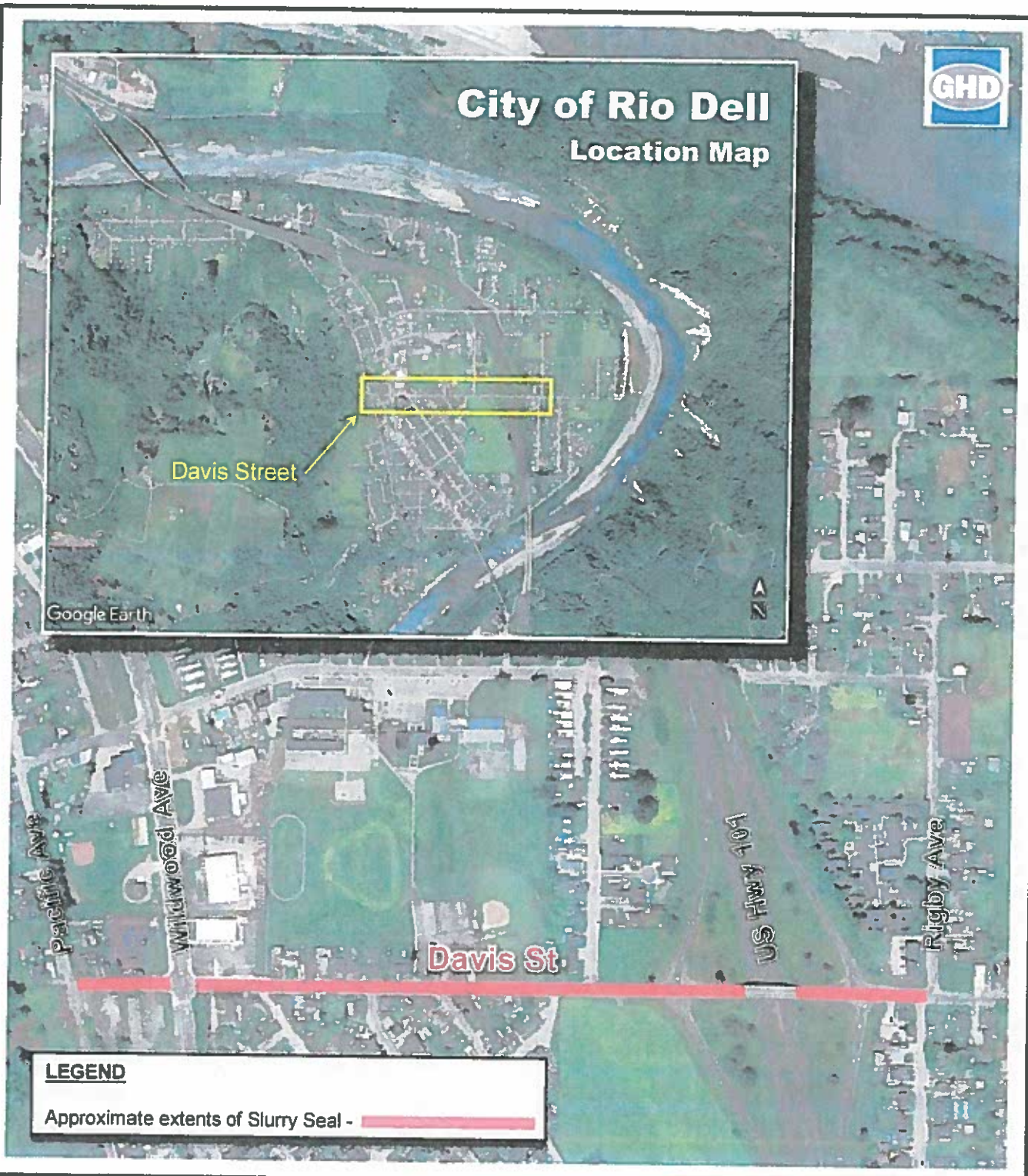
2017 Streets Resurfacing Project
Bid No. 2017-13
Share of Cost per Agency

Item #	Description	Est. Quantity	Rio Dell Total
1	Mobilization	1	$572.80
2	Traffic Control	1	$1,081.61
3	Accelerated Cure Slurry Seal	10,900	$16,350.00
4	Yellow Centerline Skip w/out Reflectors	1,490	$1,385.70
5	Yellow Centerline Skip with Reflectors		
6	White Centerline Skip with Reflectors		
7	Double Yellow w/out Reflectors	820	$1,016.80
8	Double Yellow with Reflectors		
9	4" White Solid Edge Line		
10	Two-Way Left Turn Lane		
11	8" White Lane Marker		
12	6" White Solid Bike Lane		
13	6" White Intersection Line		
14	Pavement Markings	906	$5,599.08
15	Blue Pavement Markers	2	$86.52
16	Thermo Striping Removal		
17	Thermo Striping Removal	964	$5,957.52

$32,050.04

AA1	Mobilization		
AA2	Traffic Control		
AA3	Accelerated Cure Slurry Seal		
AA4	Mobilization		
AA5	Traffic Control		
AA6	Accelerated Cure Slurry Seal		

Note: Mobilization and Traffic Control share of cost calculated using the ratio of an agenc



City of Rio Dell

2017 Streets Resurfacing Project

Not to Scale
February 14, 2017

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

April 4, 2017

TO: Rio Dell City Council

FROM: Kyle Knopp, City Manager

SUBJECT: Discussion and Possible Action to Approve Change Order #1 and Change Order #2 for the Metropolitan Wells Project Further Authorizing the City Manager to Execute

IT IS RECOMMENDED THAT THE CITY COUNCIL:

Approve Change Order No.'s 1 &2 and authorize the City Manager to execute.

BACKGROUND AND DISCUSSION

Staff is recommending two change orders to the Metropolitan Wells Project which is currently under construction.

1.) Raising the aggregate base foundation of the treatment and controls building by six inches. Saturation at the site has been evident through these winter rains. Staff is recommending raising the base of the building by six inches to provide a greater separation of the dry base of the building and the saturated ground.

2.) Replace existing Asbestos Concrete Pipe (ACP) with C900 PVC piping. Existing ACP pipe is aged and recommended to be replaced.

Additional information is attached. These change orders have been approved by the funding agencies. Change order #1 will cost $6,268 and change order #2 will cost $6,118. The Contingency budgeted for this project was $130,290. After execution of the change orders, the contingency will be reduced to $117,904.

///

EJCDC

Change Order No. 1

Date of Issuance: 3/16/17		Effective Date:	3/16/17
Owner:	City of Rio Dell	Owner's Contract No.:	0190
Contractor:	Wahlund Construction	Contractor's Project No.:	43-16
Engineer:	GHD Inc.	Engineer's Project No.:	11140078
Project:	Metropolitan Wells Redevelopment	Contract Name:	Metropolitan Wells Redevelopment

The Contract is modified as follows upon execution of this Change Order:

Description:

The City of Rio Dell would like to add an additional 6 inches of aggregate base underneath the slab of the new CMU treatment and controls building (see Detail 1, Drawing S103), thereby raising the building by 6 inches. Raising the building will also require some additional aggregate base underneath the new paved driveway to match the grades up to the building (see Drawing C103).

The initial site clearing and demolition activities indicate that the soils at the site are generally poor and saturated by the winter rains. There is concern based on these actual site conditions that the building should be slightly raised to provide greater separation from saturated soils and to provide additional compacted base rock for a firmer foundation. Therefore it is prudent to add an additional 6 inches of aggregate base underneath the building slab to provide additional support and drainage for the building.

Attachments: Cost from Contractor

CHANGE IN CONTRACT PRICE	CHANGE IN CONTRACT TIMES *[note changes in Milestones if applicable]*
Original Contract Price: $ 1,302,900	Original Contract Times: Substantial Completion: 5/29/2017 Ready for Final Payment: 6/18/2017 days or dates
[Increase] [Decrease] from previously approved Change Orders No. ___ to No. ___: $ N/A	[Increase] [Decrease] from previously approved Change Orders No. ___ to No. ___: Substantial Completion: N/A Ready for Final Payment: N/A days
Contract Price prior to this Change Order: $ 1,302,900	Contract Times prior to this Change Order: Substantial Completion: 5/29/2017 Ready for Final Payment: 6/18/2017 days or dates
[Increase] [Decrease] of this Change Order: $ 6,267.59	[Increase] [Decrease] of this Change Order: Substantial Completion: 2 days Ready for Final Payment: 2 days days or dates
Contract Price incorporating this Change Order: $ 1,309,167.59	Contract Times with all approved Change Orders: Substantial Completion: 5/31/2017 Ready for Final Payment: 6/20/2017 days or dates

EJCDC

RECOMMENDED:	ACCEPTED:	ACCEPTED:
By:	By:	By:
Engineer (if required)	Owner (Authorized Signature)	Contractor (Authorized Signature)
Title: Project Manager	Title City Manager	Title Project Manager
Date: 3/16/17	Date	Date 3/17/17

Approved by Funding Agency (if applicable)

By: _____ Date:

Title: _____

Wahlund Construction, Inc.

Rio Dell Metropolitan Wells
Raise Building 6 Inches

Labor

Description	Hours	Rate	Total
Operator	16	$71.93	$1,150.88
Foreman	16	$68.71	$1,099.36
Laborer	16	$50.29	$804.64
Project Engineer	8	$89.24	$713.92
Laborer	0	$0.00	$0.00
		Total Labor	$3,768.80

Materials

Class 2 AB	30	$12.50	$375.00
	0	$0.00	$0.00
	0	$0.00	$0.00
		Subtotal	$375.00
		Sales Tax (8.75%)	$32.81
		Total Materials	$407.81

Equipment

Skip Loader	8	$39.19	$313.52
Backhoe	0	$60.73	$0.00
5 Yard Dump Truck	8	$39.57	$316.56
Roller	8	$34.98	$279.84
Truck w/Tools	8	$39.57	$316.56
Truck w/Tools	0	$27.33	$0.00
	0	$0.00	$0.00
	0	$0.00	$0.00
		Total Equipment	$1,226.48

Subtotal	$5,403.09
15% OH&P	$810.46
1% Bond	$54.03
Total	**$6,267.59**

EJCDC

Change Order No. 2

Date of Issuance: 3/16/17		Effective Date:	3/16/17
Owner:	City of Rio Dell	Owner's Contract No.:	0190
Contractor:	Wahlund Construction	Contractor's Project No.:	43-16
Engineer:	GHD Inc.	Engineer's Project No.:	11140078
Project:	Metropolitan Wells Redevelopment	Contract Name:	Metropolitan Wells Redevelopment

The Contract is modified as follows upon execution of this Change Order:

Description:

The existing water main on the west end of the site is 6-inch asbestos cement pipe (ACP). The City of Rio Dell would like to replace the length of existing pipe from the tie-in location (Keynote 20 on Drawing C102) to the southern property line with new 6-inch C900 PVC pipe with bell restraints.

The size and material of the existing water main was unknown at the time of design due to the lack of record drawings for the area. The Contractor recently potholed the area to determine these characteristics and found that the existing main is 6-inch ACP. The existing ACP is old and is not in ideal condition. ACP is also very difficult to work with and work around, as it can be brittle and break easily. Replacing the existing ACP at the site will allow for easier connections, prevent damage from the site construction activities in the vicinity of the existing pipe, and reduce potential future risk of damage due to issues with the ACP.

Attachments: Cost estimate from Contractor ; Quote from supplier

CHANGE IN CONTRACT PRICE	CHANGE IN CONTRACT TIMES *[note changes in Milestones if applicable]*
Original Contract Price: $ 1,302,900	Original Contract Times: Substantial Completion: 5/29/2017 Ready for Final Payment: 6/18/2017 days or dates
[Increase] [Decrease] from previously approved Change Orders No. 1 to No. 1 : $ 6,267.59	[Increase] [Decrease] from previously approved Change Orders No. 1 to No. 1 : Substantial Completion: 2 Ready for Final Payment: 2 days
Contract Price prior to this Change Order: $ 1,309,167.59	Contract Times prior to this Change Order: Substantial Completion: 5/31/2017 Ready for Final Payment: 6/20/2017 days or dates
[Increase] [Decrease] of this Change Order: $ 6,118.02	[Increase] [Decrease] of this Change Order: Substantial Completion: 2 days Ready for Final Payment: 2 days days or dates
Contract Price incorporating this Change Order: $ 1,315,285.61	Contract Times with all approved Change Orders: Substantial Completion: 6/2/2017 Ready for Final Payment: 6/22/2017 days or dates

EJCDC

RECOMMENDED:	ACCEPTED:	ACCEPTED:
By:	By:	By:
Engineer (if required)	Owner (Authorized Signature)	Contractor (Authorized Signature)
Title: Project Manager	Title City Manager	Title Project Manager
Date: 3/16/17	Date	Date 3/17/17

Approved by Funding Agency (if applicable)

By: _____ Date:

Title: _____

Wahlund Construction, Inc.

Rio Dell Metropolitan Wells
Replace 6" AC Pipe with 6" C900

Labor

Description	Hours	Rate	Total
Operator	12	$71.93	$863.16
Foreman	12	$68.71	$824.52
Laborer	12	$50.29	$603.48
Project Engineer	8	$89.24	$713.92
Laborer	0	$0.00	$0.00
		Total Labor	$3,005.08

Materials

Keenan Supply	1	$703.74	$703.74
	0	$0.00	$0.00
	0	$0.00	$0.00
		Subtotal	$703.74
		Sales Tax (8.75%)	$61.58
		Total Materials	$765.32

Equipment

Skip Loader	8	$39.19	$313.52
Backhoe	8	$60.73	$485.84
5 Yard Dump Truck	8	$39.57	$316.56
VibraPlate	8	$8.91	$71.28
Truck w/Tools	8	$39.57	$316.56
Truck w/Tools	0	$27.33	$0.00
	0	$0.00	$0.00
	0	$0.00	$0.00
		Total Equipment	$1,503.76

Subtotal	$5,274.16
15% OH&P	$791.12
1% Bond	$52.74
Total	**$6,118.02**

Quotation

026 KEENAN EUREKA
49 2ND ST
EUREKA CA 95501-0300
707-443-8453 Fax 707-443-0195

QUOTE DATE	QUOTE NUMBER
02/23/17	S009453142

QUOTED BY:
026 KEENAN EUREKA
49 2ND ST
EUREKA CA 95501-0300
707-443-8453 Fax 707-443-0195

PAGE NO: 1 of 1

Printed : 10:31:04 23 FEB 2017

QUOTE TO: 19922
WAHLUND CONSTRUCTION
830 HILMA DR
EUREKA, CA 95503-6600

SHIP TO :165098
METROPOLITAN WELLS
C/O WAHLUND CONSTRUCTION
RIO DELL, CA 95562

707-268-0150

QUOTED BY	CUSTOMER PURCHASE ORDER NUMBER	CUSTOMER RELEASE NUMBER	SALESPERSON
BRET RINEHART	QUOTE		House

BUYER	SHIP VIA	TERMS	EXPIRATION DATE	FREIGHT ALLOWED
Pete Gray	OT OUR TRUCK	NET 60 DAYS	04/09/17	No

QUOTE QTY	OUR PART#	DESCRIPTION	NET PRICE	EXT PRICE
80ft	13752	6 PVC DR18 CL150 C900 PIPE	4.520/ft	361.60
3ea	51786	ROMAC 611 6.90 RESTRAINT	69.968/ea	209.90
1ea	13378	6 DI C153 MJXFLNG ADPT	72.750/ea	72.75
1ea	51813	ROMAC GRAP-DI 6 GRIP RING ACCY PAK	59.490/ea	59.49
		TAXES NOT INCLUDED		

Prices contained in this quote are the prices in effect at the time of quotation, and are subject to change at any time. We are not responsible for inadequate quantity descriptions. Quantities should be checked against plans and specifications for accuracy. Special order material is non-cancellable. We are not responsible for delays not within our control.

Subtotal	703.74
Bid Total	703.74

675 Wildwood Avenue
Rio Dell, CA 95562
(707) 764-3532
(707) 764-5480 (fax)
E-mail: k

CITY OF RIO DELL
STAFF REPORT
CITY COUNCIL AGENDA
April 4, 2017

TO: Mayor and Members of the City Council

THROUGH: Kyle Knopp, City Manager

FROM: Brooke Woodcox, Finance Director

DATE: April 4, 2017

SUBJECT: Presentation – General Financial and Economic Information for Development and Prioritization of the City's 2017/18 Fiscal Year Budget Cycle

RECOMMENDATION

1. Receive staff's presentation
2. Open the public comment
3. Motion to close the public comment

BACKGROUND AND DISCUSSION

The attached report and presentation at the meeting of April 4, 2017 are for informational purposes to provide Council and Community members an update on the City's financial health. The written report is a look at all of the City's funds, especially those that at an earlier point in time had serious structural budget deficits.

The details in the written report are meant to provide context for the new budget cycle for FY 2017/18. The presentation will summarize these details and highlight many of the solutions that have worked to build a more positive outlook as the 2017/18 budget cycle begins.

THIS REPORT is for informational purposes and is provided to assist in giving insight into the economic climate of the City of Rio Dell as the new budget cycle for fiscal year 2017/18 opens up. In the report is a generalized summary of the City's financial picture beginning in 2014 when the City was confronting serious structural budget deficits in the General Fund, Water Enterprise Fund, and Streets Funds. The report further outlines all of the City's funds, and not just those that created the most significant challenges for City Staff. Since 2014 solutions to these problems have been sought and at the present point in time many crisis have been mitigated. These turning points have served to move the City closer towards sustainability. Through interesting and unique ways, goals were developed and are working to manifest long-term stability one fund at a time.

GENERAL FUND The City's General Fund is the primary source of discretionary revenues that the City Council members, with the interests of the City and its residents as priority, can authorize for services that are necessary and appropriate for a healthy community. Through the development of healthy communities as a model, the General Fund supports the Police and Planning Departments, and also helps support general government activities including management and oversight of all City functions through the departments of the City Manager, Finance, Building, City Council, and Buildings and Grounds.

Considering the General Fund structural budget deficit in 2014 where revenues fell 16% short of expenditures, and the current slight decrease in the fund balance of 4% since then, the General Fund is in good financial shape with a fund balance of $1.181 million at fiscal yearend 2015/16. In broader terms, the General Fund balance is a key measure of the financial health of the City and overall the fund's financial outlook appears healthy through 2019 when Measure U expires. So long as either Measure U is renewed or a new tax measure is realized, the General Fund balance will continue to have long-term stability.

The top five (5) revenue sources that support General Fund services are:

In Lieu Vehicle License Fees (VLF) (36%). VLF is a state tax imposed on vehicle owners for the privilege of operating a vehicle on a public street. VLF is based on depreciated value. The VLF tax law guaranteed a stable revenue amount to local governments that would be backfilled by the state's General Fund in cases of revenue shortfalls. However, there was a "trigger" clause that pulled General Fund revenues away from backfilling VLF distributions when General Fund revenues became insufficient, which is what happened in 2003. Governor Schwarzenegger

repealed the "trigger" and proposed the VLF for Property Tax Swap. From that point on property tax revenues have been allocated to local government in-lieu of VLF.

Measure U (22%). Measure U was passed by Rio Dell Voters in November 2014. The 1% local tax was a means to temporarily address the on-going structural budget deficit in the General Fund. Revenue collections for the first year were $216,054, which was $56,000 higher than the Board of Equalization's original estimate of $160,000. The tax sunsets in December 2019, and without passage of new legislation, or alternatively, spending restructuring, the General Fund balance will begin to deplete.

Property tax (12%). Property taxes are administered by the County and allocated pursuant to a statutory allocation formula. FY 2015/16 allocations were: Schools 62.5%, County 16.1%, Special Districts 7.5%, Redevelopment 7.4%, **Cities 2.5%,** County Roads 2.2%, and County Library 1.9%. The Cities' portion is allocated to the Cities of Arcata, Blue Lake, Eureka, Ferndale, Fortuna, Rio Dell, and Trinidad.

Retail Sales Tax (12%). The Bradley Burns sales tax is a 1% general tax, which is shared between City, County, and State. This revenue source has seen declines at the City level since 2011. As a general tax, the revenues can be used for any regular general governmental purpose.

Franchise Fees (9%). The revenues for franchise fees are derived through cable, disposal services, and electrical services. Revenues are received both in quarterly and annual payments. The City receives a small percentage of gross receipts as a toll for the use of City streets and rights of way.

ENTERPRISE FUNDS. The Cities enterprise funds are sewer and water public utilities. Revenues for the sewer and water funds are collected through user fees and charges for each system's respective services. The use of Enterprise Fund revenues are restricted to the purpose to which the fee is imposed. Revenues are also limited to the cost of providing the service, including overhead. In the case of municipal provided sewer and water utilities, revenues collected cannot be used for any other purpose.

The City of Rio Dell has four (4) separate funds for sewer and five (5) separate funds for water. Each separate fund captures a percentage of revenues based on criteria put in place through Proposition 218 rate setting regulations titled the Right to Vote on Taxes Act. The separate funds necessitate each fund to have its own chart of accounts in order to keep separate the transactions related to that fund's specific activity of water

and sewer *operations, capital, and debt service*. These activities are kept separate for financial reporting purposes and sound financial management, however in essence, all sewer *funds* make up the Sewer Enterprise Fund, and all water *funds* make up the Water Enterprise Fund.

Sewer and Water Operations. The operating funds for sewer and water support on-going operations for the activities necessary to keep these systems functioning at efficient levels. Customer user fees and charges pay for Public Works and Administration labor costs, plant and administrative overhead, along with other fixed and variable costs for the operation and general administration related to these activities. On-going general repairs and maintenance costs are also paid for through the operating funds.

Sewer and Water Capital Funds. The sewer and water systems, because of their size and capacity to process, deliver, and dispose of the City's water and wastewater, are capital intensive systems. This means that major replacement, and repair and maintenance costs for property, plant, and equipment are collected over time in order to prioritize and plan for their expense well into the future. An on-going strategy is necessary to effectively sustain the City's delivery and disposal systems that consist of hundreds of miles of underground infrastructure and multi-million dollar processing plants. In addition, this involves meeting stringent regulatory requirements for licensing under the State Water Resources Control Board (SWRCB). Customer user fees and charges are accumulated in the Capital Funds for financing and/or paying for major costs that surpass the capitalization threshold of $5,000 and planning for the systems' future needs.

Sewer and Water Debt Service Funds. The Debt Service Funds capture revenues necessary to pay off water and sewer system debt as it becomes due and restricts any amounts related to the financing agreements of those debts. Annual amounts of $302,900 (sewer plant) and $136,000 (water infiltration gallery) are paid to the SWRCB for debt service payments. The Sewer's $12.6 million dollar plant is scheduled to be paid in full in 2043, and the water system's $10 million infiltration gallery final payment is due in 2025. The SWRCB made these projects possible through grants that paid half the cost of the new systems for a total of $11 million in grant funds.

Metropolitan Water Fund. In 2014 the City obtained $784,000 in funding through the North Coast Integrated Regional Water Management Plan (NCIRWMP) for an intertie pipeline connecting Rio Dell's water system to Scotia's. This project met two of the goals for NCIRWMP funding: 1) To promote local autonomy; and 2) Develop

intra-regional cooperation. The project to connect the two systems was negated just as the City was heading into the summer months of 2014, which would turn out to be a peak year for the worst drought in California's history. Restrictions on water use were being implemented statewide even to the point that the City of Rio Dell was mandated to stop all draws of water out of the Eel River, which is the City's sole water supply for providing water services to its 3,500 residents. Because of health and safety issues the SWRCB limited Rio Dell's water consumption to fifty (50) gallons per person per day.

The impending circumstances of losing funding for an intertie that would have served well during this emergency crisis, and the necessity of finding alternative solutions, the City was able to develop a viable solution that redirected NCIRWMP grant funds towards the regeneration of the City's wells at Metropolitan Avenue that will serve as a backup water supply in emergency situations. The City has since secured additional funding for the project through the United State Department of Agriculture (USDA) Emergency Community Water Assistance Grants (ECWAG) for $373,200 and the SWRCB Drinking Water State Revolving Fund (DWR) for $665,876. The City's contribution is $57,000 (3%) of the total cost to rehabilitate the wells ($1.8 million).

Dinsmore Zone Water Fund. The Prop 218 water rate increase in 2015 put into place a surcharge for customers on Monument Road since these customers are serviced through a pump and delivery system that only serves a small number (30) of parcels located outside of City limits. It's estimated that $22,000 will be collected annually for on-going maintenance and repairs. Included in the surcharge is a plan to accumulate "seed" funding for financing total replacement of the aging infrastructure on Monument Road.

Sewer Assessment Fund. In 1979 the City obtained bonds to finance replacement and repairs for a new sewer system. Residents tied to the sewer system at that time make annual payments on the bonds through the County's property tax collection process. Outstanding bonds total $60,000 and will be paid off in 2019.

Sewer Rate Change. In April 2014 the City went through the Prop 218 process and adopted a new sewer rate structure. The adopted structure uses winter water consumption as a variable for charges, which resulted in over 70% of customers receiving a reduction from the single-service price of $78.44 per month. In comparison to the study, sewer fund revenues closely follow the estimated amounts provided in the study.

The FY 2013/2014 sewer rate study was necessary to finance and plan for the $12 million sewer system upgrade that was already in progress. The rates were developed using a City-wide monthly average per household of five (5) units to calculate an Equivalent Dwelling Unit (EDU), or one (1) residential base service charge for billing purposes. EDU charges are not dependent on vacancy; customers are billed so long as there is a sewer connection available for use of the City's capital intensive sewer infrastructure.

In 2016 mobile home / RV park owners had concerns about trailers, mobile homes, and vacant spaces being charged one (1) EDU each. Council approved a reduction of 50% off the base charge for trailer parks if specific criteria can be met.

Water Rate Increase. Beginning in May of 2015 and ending in December 2015 the City went through the Prop 218 process to increase water rates. This was in response to the water fund balance, which was being depleted as revenues were falling short of expenditures. In addition, the City was out of compliance with the SWRCB funding agreement that required the City to restrict a final loan payment amount of $136,000. Prior to the water rate increase, these funds had not been set aside because the water funds were struggling just to meet operations and annual debt payments. Funds for capital improvements and maintenance and repairs were not being collected because the water rates were too low to provide them. This too, was out of compliance with the financing agreement with SWRCB.

The City contracted with Rural Communities Assistance Corporation (RCAC) that provided services through grant funding. Ultimately, the Council adopted a rate structure that brought funding in alignment with the SWRCB funding stipulations, as well as encompasses a plan that overtime will take care of the water system's aging infrastructure by building "seed" amounts for grant and loan funding in the future. The study was formulated with a 75% fixed/25% variable rate structure to meet the $1.105 million in revenues that includes sufficient funding for operations, debt service, and capital needs as they arise. To date the water revenues are meeting targeted revenue amounts that were outlined in the study.

In 2016 mobile home / RV park owners had concerns about trailers, mobile homes, and vacant spaces being charged one (1) full service count per space. Council approved a reduction of 50% off the base charge for trailer parks if specific criteria can be met.

SPECIAL REVENUE FUNDS

STREETS

The City has two funds that are used to capture revenues and expenditures for City streets. These are the Gas Tax Fund (or Highway Users Tax Account HUTA) and the Transportation Development Account (TDA) Fund. Since 2014 the streets funds' reserve balance has declined by 23% having gone from $329,738 at fiscal yearend 2014/15 to $253,688 at June 30, 2016. The annual operating and capital budget for the past three fiscal years has been balanced with 40% of total costs budgeted through reserves. This rate, however, hasn't been realized as staff is aware of the lack of funding and Public Works activities are often redirected in order to mitigate steep declines in fund balances.

Without new legislation at the state or local level the general outlook in the streets funds shows that in a matter of years the reserves will be gone and funding will be minimal to the point that basic maintenance, which has already been reduced, will be even less in the future.

TDA Fund. These funds are for the development and support of public transportation needs that exist in California and are allocated to areas of each county based on population, taxable sales and transit performance. The County allocates a portion to the City of Rio Dell based on population. The City then pays a portion (44%) to Humboldt Transit Authority (HTA) and the Senior Resource Center (SRC) for transportation needs in the City. The remaining funds are used for streets and roads repairs. Annual funding through TDA monies averages $112,000. An estimated $48,500 of this amount is passed through to HTA and SRC.

Gas Tax Fund. The Highway User's Tax Account Fund (HUTA) is a per gallon excise tax for fuel used to propel a motor vehicle or aircraft. Counties and Cities receive about $1.5 million per year based on the number of registered vehicles within each County. After the county's portion is removed the remainder goes to the cities based on population. Gas tax revenues have been seeing declines for several years. This is the biggest structural budget challenge for the City since streets and roads funding is mainly controlled at the State level. With monies that have shown continual declines, repairs and maintenance of City streets is decreasing as they are increasingly getting worse with potholes and other issues.

CDBG. The City of Rio Dell holds $1.2 million in CDBG housing and home improvement loans. Most of these loans are 3% simple interest, and a small number have 0% interest. The majority of the loans are due and payable when the residence is sold, or the owner deceased.

Parks and Recreation. The City collects revenues for parks and recreation through building permit fees of residential construction in a subdivision. The Parks and Recreation Fund was established in 2009 (Resolution 1036-2009). Fees are $1,500 to be used for parks maintenance and repairs.

Realignment Grant. Public Safety Realignment grant (AB109) is a permanent and dedicated revenue stream given to public safety programs to alleviate the burden of low-level inmates being released from state prisons due to overcrowding. The funds are issued to the County and an apportionment is given to cities.

SLESF Fund. The Supplemental Law Enforcement Services Fund is an annual grant through Citizens Option for Public Safety (COPS) for direct-line activities in Law Enforcement. The City uses funds of $100,000 each year to pay salaries and wages for one Police Officer.

Solid Waste/Recycling Funds. The City receives $5,000 in pass-through funds from CalRecycle that is directed to Humboldt Waste Management Authority for management of recycling activities in the City. The City also receives tipping fees that are mandated through AB939 from Humboldt Waste management Authority and Eel River Disposal. Currently reserves are about $43,000 for these funds.

Spay/Neuter Fund. There is a reserve balance of $2,800 in the Spay/Neuter Fund. These funds were budgeted in FY 2015/16 as a contingency item, along with matching funds from the general fund, for spending. A plan was not developed; therefore the Spay/Neuter Fund amount is unchanged.

The Nuisance Abatement Fund. Since 2014 the Nuisance Abatement Fund has had a negative fund balance of $6,700 due to an abatement and cleanup project. The City placed a lien against the property for reimbursement, which won't be realized until the property is sold, and if remaining amounts from the sale are available to cover the lien. The General Fund will absorb any remaining unrecoverable amounts.

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

April 4, 2017

TO: Rio Dell City Council

FROM: Kyle Knopp, City Manager

SUBJECT: Discussion and Possible Action to Amend City Council Committee Assignments

IT IS RECOMMENDED THAT THE CITY COUNCIL:

Provide direction on committee assignments.

BACKGROUND AND DISCUSSION

The Mayor is proposing adjustments to committee assignments for 2017. The proposed adjustment would involve moving Councilmember Marks from the lead on the Redwood Coast Energy Authority (RCEA) and placing the Mayor (who is currently the alternate) into the lead on this assignment. Councilmember Marks would then assume the alternate position for RCEA.

CITY COUNCIL BOARD/COMMIITTEE/COMMISSION ASSIGNMENTS

	Appointee	Alternate
Humboldt County Association of Governments (HCAOG) • Meets 3rd Thursday at 4:00 PM in Eureka	Johnson	Strahan
Humboldt County Convention & Visitors Bureau • Meets Quarterly for lunch (various locations)	Garnes	Marks
Humboldt Waste Management Authority (HWMA) • Meets 3rd Thursday @ 5:30 PM in Eureka	Wilson	Johnson
Humboldt Transit Authority (HTA) • Meets 3rd Wednesday at 9:00 AM at HTA	Marks	Strahan
League of California Cities (Redwood Empire Division) (LOCC) • Meets Quarterly (various locations)	Johnson	Garnes
Redwood Region Economic Development Commission (RREDC) • Meets 4th Monday at 6:30 PM in Eureka	Wilson	Johnson
Local Agency Formation Commission (LAFCo) (Appointed Dec. 2014 to term ending 6/30/16)	Johnson	None
Redwood Coast Energy Authority • Meets 3rd Monday at 3:00 PM in Eureka	Marks	Wilson
Humboldt/Del Norte Hazardous Response Authority • Meets Quarterly at 4:30 PM in Eureka	Strahan	Garnes

INTERNAL COMMITTEES

Traffic Committee: Chief of Police Hill, Community Development Director Caldwell, City Manager Knopp, Rio Dell Fire Chief Wilson, Water/Roadways Superintendent Jensen, Mayor Wilson and Councilmember Marks
(Meetings scheduled as needed)

Nuisance Hearing Committee: City Manager Knopp, Community Development Director Caldwell, Chief of Police Hill, Councilmember Johnson and Marks, and 2 public members, Julie Woodall and Joseph Frye

(There is no establishment of a "Nuisance Committee")

Sculpture Committee: Community Development Director Caldwell, Mayor Wilson, Susan Pryor, Robert (Robey) Agnew and Kim Reid

Liaison to Rio Dell Fire District: Councilmember Garnes/Strahan (Alternate)

Liaison to Rio Dell/Scotia Chamber of Commerce: Councilmember Marks/Garnes (Alternate)

Labor Adhoc Committee: Councilmembers Marks and Garnes; Mayor Pro Tem Johnson, Alternate.

Updated 1/17/17

Rio Dell City Hall
675 Wildwood Avenue
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riodellcity.com

April 4, 2017

TO: Rio Dell City Council

FROM: Kyle Knopp, City Manager

SUBJECT: Discussion And Possible Action Adopting Resolution No. 1329-2017 Submitting To The Voters Proposed Ordinance No. 354 Adding Section 5.40 To The Rio Dell Municipal Code Creating A "Cannabis" Business Tax Of Up To Five Dollars ($5.00) Per Square Foot Of Space Utilized For Certain Commercial Cannabis Cultivation Activity And A Tax Rate Of Up To Ten Percent (10%) Of Gross Receipts For Certain Other Commercial Cannabis Activity Further Requesting The Board Of Supervisors Of Humboldt County To Consolidate Said Election With The Statewide General Election And Further Directing The City Clerk To Take Any And All Actions Necessary Under Law To Prepare for And Conduct The Election.

IT IS RECOMMENDED THAT THE CITY COUNCIL:

1. Receive a short presentation from staff.

2. Hold discussion on the item.

3. Hold public comment on the item.

4. Give direction to staff via a motion:

   "I move to adopt Resolution No. 1329-2017 submitting to the voters the proposed cannabis taxation Ordinance No. 354, further requesting of the Board of Supervisors the consolidation of said election with the General Election and further directing the City Clerk to take any all actions necessary under law to prepare for and conduct the election." **(4/5 Vote Requirement)**

   Or;

   Provide further direction to staff.

BACKGROUND AND 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. Criticism of Proposition 215 has been steadily growing over the last 20 years as the State failed to create a regulatory framework to address the complex issues surrounding marijuana, some of which include: environmental impacts, product safety, prescription abuse, local control, transportation and taxation.

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 to tax medical cannabis on a local level.

On November 8, 2016 the voters of California passed proposition 64 which legalized non-medical marijuana and established a tax structure for marijuana and the State government. Proposition 64 also affirmed the ability of local governments to establish taxes for commercial activities.

On February 21, 2017 the City council discussed an agenda item relating to the timeline for a potential cannabis tax measure to be submitted to the voters. This came after two agenda items in 2016 failed to garner the necessary 4/5th vote to refer the matter to the voters.

On March 7, 2017 the Council held its first reading of Ordinance No. 354-2017, a similar proposal to those from 2016. The proposal attempts to maximize flexibility for the City in terms of administration of the tax and also the level of taxation. It created two types of taxes, one for cultivation based upon square footage, and one for all other activities based upon gross receipts.

On March 21, 2017 the Council further Considered Ordinance No. 354-2017 and directed changes that would allow the Gross Receipts tax to be applied to cultivation or a tax based upon square footage. This change would allow the City Council to (by Ordinance) change the method of taxation for certain cultivation types from one based upon square footage to one based upon gross receipts. For example, the City could tax a retail nursery by gross receipts as opposed to square footage, or a stand-alone processor by gross receipts. Under these changes, the City should be able to tax all types of known or possible commercial cannabis related activities.

Initial rates are set at $2.00 per square foot for cultivation and 2% of gross receipts for all other types including retail nurseries and stand-alone processors.

The City Attorney is not recommending that the square footage tax be applied to any other license category outside of cultivation, and Ordinance No. 354-2017 only allows a square footage tax on cultivation.

Revenue estimates are based upon the information that staff has available at this time. At the time of agenda publication, no permit applications have been filed. Based upon staff conversations with developers, the Humboldt Rio Dell Business Park (HRD) is anticipated to contain 130,000 square feet of taxable cultivation space and potentially 3,000,000 grams of manufacturing each year. A gram is tentatively valued at twelve dollars. Based upon these assumptions, tax revenue is estimated to be $980,000 annually at the tax rate currently proposed. While staff believes these numbers will change, under State law we are required to add an estimate of annual revenue on the ballot. This language is contained in Resolution 1329-2017.

///

Cannabis Taxes for State, County and Rio Dell by Activity Type, March 2017

Option 4A: Gross Receipts Tax Applied to All Cannabis Activities With Ability To Substitute Square Footage Tax on Cultivation

State License Types:	Types 1-4	Types 1-4	Types 6-7	Type 11	Type 12	Type 8	Types 10	Types 10
	Cultivation by Sq. Ft.	Cultivation by weight	Manufacture	Distribution	Transportation	Laboratory Testing	Sales by Special Excise	Regular Sales Tax (medical exempt)
State Taxes	N/A	Flowers: $9.25 oz. Leaves/Trim: $2.75 oz.	N/A	N/A	N/A	N/A	15%	7.5% +
County Taxes	$1.00 Sq. Ft. Outdoors $2.00 Sq. Ft. Mixed Light $3.00 Sq. Ft. Indoor	N/A	N/A	N/A	N/A	N/A	N/A	County would receive its Bradley Burns and Measure Z Portion
Rio Dell Taxes	$0.00 to $5.00 Sq. Ft. initially set at $2.00 Sq. Ft. most methods or 0-10% initially set at 2% Gross Receipts (2% Gross Receipts applied to "Retail Nurseries" and "Stand-Alone Processors")	N/A	0-10% initially set at 2% Gross Receipts	0-10% initially set at 2% Gross Receipts	0-10% initially set at 2% Gross Receipts	0-10% initially set at 2% Gross Receipts	0-10% initially set at 2% Gross Receipts	City Would receive its Bradley Burns and Measure U portion.

RESOLUTION NO. 1329-2017

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIO DELL SUBMITTING TO THE VOTERS AT THE GENERAL ELECTION ON NOVEMBER 7, 2017, A PROPOSED ORDINANCE ADDING SECTION 5.40 TO THE RIO DELL MUNICIPAL CODE AND CREATING A "CANNABIS" BUSINESS TAX OF UP TO FIVE DOLLARS ($5.00) PER SQUARE FOOT OF SPACE UTILIZED FOR CERTAIN COMMERICAL CANNABIS CULTIVATION ACTIVITY AND A TAX RATE OF UP TO TEN PERCENT (10%) OF GROSS RECEIPTS FOR CERTAIN OTHER COMMERCIAL CANNABIS ACTIVITY; REQUESTING THE BOARD OF SUPERVISORS OF HUMBOLDT COUNTY TO CONSOLIDATE SAID ELECTION WITH THE STATEWIDE GENERAL ELECTION; AND DIRECTING THE CITY CLERK TO TAKE ANY AND ALL ACTIONS NECESSARY UNDER LAW TO PREPARE FOR AND CONDUCT THE ELECTION.

WHEREAS, on October 9, 2015, Governor Brown approved a package of three bills enacted by the legislature on September 11, 2015, i.e., 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, on October 18, 2016, the City Council of the City of Rio Dell adopted an ordinance establishing Section 17.30.195, as later amended, of Title 17 of the Rio Dell Municipal Code regulating the commercial cultivation, processing, manufacturing and distribution of Cannabis for medical use within the City; and

WHEREAS, the City Council has considered potential impacts to City services that may result from permitting commercial cultivation, processing, manufacturing and distribution of Cannabis for medical use within the City and has determined that imposing a business tax on such businesses will help to alleviate and offset the impacts to City services; and

WHEREAS, under the proposed Ordinance, "cannabis cultivation businesses" will be taxed at a rate of up to five dollars ($5.00) per square foot of space utilized in such business and "other cannabis businesses" will be taxed at a rate of up to ten percent of gross receipts; and

WHEREAS, accordingly, the City Council desires to add Chapter 5.40 to Title 5 of the Rio Dell Municipal Code and, therefore, by way of this Resolution, proposes the Ordinance to the qualified voters of the City for their approval and adoption; and

WHEREAS, the City Council has determined that all revenues received from the tax will be deposited in the general fund of the City to be expended for general fund purposes.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Rio Dell:

1. Recitals, The foregoing recitals are true and correct and are hereby incorporated by reference.

2. Call Election; Placement of Measure on the Ballot. Pursuant to California Constitution Article XIIIC, Section 2; Government Code Section 53724; and Elections Code Section 9222, the City Council of the City of Rio Dell hereby calls an election at which it shall submit to the qualified voters of the City, a measure that, if approved, would adopt a business tax upon "commercial cannabis activity" as that term is defined in the proposed ordinance and at the rates imposed therein. This measure shall be designated by letter by the Humboldt County Registrar of Voters. Pursuant to Election Code Section 10400 *et seq.*, the election for this measure shall be consolidated with the established election to be conducted on November 7, 2017, and be held and conducted in the manner prescribed by Elections Code Section 10418.

3. Ballot Language. The question to be presented to the voters is as follows:

Shall the ordinance creating a new business tax for commercial cannabis activity of up to five dollars per square foot of space utilized for certain cannabis cultivation activity and up to ten percent of gross receipts for certain other cannabis activity, with all proceeds placed in the City's General Fund to be used for any governmental purpose, be adopted? The tax imposed by this Ordinance is expected to generate $980,000 in annual revenue and will continue in effect until later repealed.	YES	
	NO	

4. Proposed Ordinance. The ordinance authorizing the business tax to be approved by the voters pursuant to Sections 2 and 3 of the Resolution is as set forth in Attachment 1. The City Council hereby approves the ordinance, and form thereof, and its submission to the voters of the City at the November 7, 2017 election, subject to the approval of a majority of the voters voting on the measure at the election called by the adoption of this resolution. The entire text of the ordinance, attached hereto as Attachment 1, shall be included in the voters' pamphlet. The ordinance specifies that the rate of the business tax shall be up to five dollars ($5.00) per square foot of space utilized in connection with certain commercial cannabis cultivation activity and up to ten percent (10%) of the gross receipts from certain other commercial cannabis activity within the City; it specifies that the tax shall be in effect until later repealed. The City shall collect the tax from persons and entities subject to the tax.

5. Publication of Measure. The City Clerk is hereby directed to cause notice of the measure to be published once in the official newspaper of the City of Rio Dell, in accordance with Section 12111 of the Elections Code and Section 6061 of the Government Code.

6. Request to Consolidate and Conduct Election and Canvass Returns.

(a) Pursuant to the requirement of Section 10403 of the Elections Code, the Board of Supervisors of the County of Humboldt is hereby requested to consent and agree to the consolidation of a General Municipal Election with the Statewide General Election on Tuesday, November 7, 2017, for the purpose of placing the measure set forth in Sections 3 and 4 on the ballot.
(b) The County of Humboldt Registrar of Voters is authorized to canvass the returns of the municipal election. The election shall be held in all respects as if there were only one election, and only one form of ballot shall be used.
(c) The Board of Supervisors is requested to issue instructions to the Humboldt County registrar of voters take any and all steps necessary for the holding of the consolidated election.
(d) The City of Rio Dell recognizes that additional costs will be incurred by the County of Humboldt by reason of this consolidation and agrees to reimburse the County for any costs.

7. Submission of Ballot Argument and Impartial Analysis.

(a) The submission of ballot arguments for or against the measure shall be conducted pursuant to Election Code sections 9281 through 9287.
(b) The last day for submission of direct arguments for or against the measure shall be by August 11, 2017.
(c) Direct arguments shall not exceed three hundred (300) words and shall be signed by not more than five persons.
(d) The City Attorney shall prepare an impartial analysis of the measure by August 28, 2017.

8. Effective Date. This Resolution shall become effective immediately upon its adoption and the City Clerk is directed to send certified copies of the Resolution to the Humboldt County Board of Supervisors and the Humboldt County Registrar of Voters.

9. CEQA. The approval of this resolution is exempt from the California Environmental Quality Act (Public Resources Code §§ 21000 *et seq.*, "CEQA," and 14 Cal. Code Reg. §§ 15000 *et seq.*, "CEQA Guidelines"). The business tax to be submitted to the voters is a general tax that can be used for any legitimate governmental purpose; it is not a commitment to any particular action. As such, under CEQA Guidelines section 15378(b)(4), the tax is not a project within the meaning of CEQA because it creates a government funding mechanism that does not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment. If revenue from the tax were used for a purpose that would have such effect, the City would undertake the required CEQA review for that particular project. Therefore, under CEQA Guidelines section 15060, review under CEQA is not required.

PASSED AND ADOPTED by the City Council of the City of Rio Dell, State of California, on April 4, 2017, 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 Resolution No. 1329-2017 approved and adopted by the City Council of the City of Rio Dell on April 4, 2017.

_____

Karen Dunham, City Clerk

Ordinance No. 354-2017

ORDINANCE ADDING CHAPTER 5.40 TO TITLE 5 OF THE RIO DELL MUNICIPAL CODE AND CREATING A NEW BUSINESS TAX FOR COMMERCIAL CANNABIS BUSINESS

The people of the City of Rio Dell do ordain as follows:

Section 1. The Rio Dell Municipal Code is hereby amended to add sections as set forth below.

Section 2. Code Amendment. Title 5 of the Rio Dell Municipal Code is hereby amended adding Chapter 5.40 to read as follows:

Chapter 5.40 - CANNABIS BUSINESS TAX

Part 1 - Purpose and Definitions

5.40.010 - Purpose of chapter.

This chapter is enacted solely to raise revenue for municipal purposes and is not intended for regulation.

5.40.020 - Definitions.

Unless otherwise specified herein, the definitions set forth in this part shall govern the application and interpretation of this chapter.

5.40.030 - Business.

The term "business" shall include all activities engaged in or caused to be engaged in within the City including any commercial or industrial enterprise, trade, profession, occupation, vocation, calling, or livelihood whether or not carried on for gain or profit, but shall not include, the services rendered by an employee to his or her employer.

5.40.040 - Business license.

"Business license" means the license issued by the City to the taxpayer upon completion of the business license application and payment of the tax prescribed by Chapter 5.05.

5.40.050 - Director.

"Director" means the Director of the Finance Department of the City or, if the Director of the Finance Department position is vacant or the Director is incapacitated or otherwise unavailable, such other person designated by the City Manager to administer this chapter.

5.40.060 - Employee.

"Employee" means each and every person engaged in the operation or conduct of any business, whether as owner, member of the owner's family, partner, associate, agent, manager or solicitor, and each and every other person employed or working in such business for a wage, salary, commission or room and board or as a volunteer.

5.40.070 - Engaged in business.

A. "Engaged in business" means the commencing, conducting, operating, managing or carrying on of Commercial Cannabis Activity (as defined below) and the exercise of corporate or franchise powers, whether done as owner, or by means of an officer, agent, manager, employee, or otherwise, whether operating from a fixed location in the City or coming into the City from an outside location to engage in such activities.

B. A person shall be deemed engaged in business within the City if:

1. Such person or person's employee maintains a fixed place of business within the City for the benefit or partial benefit of such person;
2. Such person or person's employee owns, rents, or leases real property within the City for business purposes;
3. Such person or person's employee regularly maintains a stock of tangible personal property in the City for sale in the ordinary course of business;
4. Such person or person's employee regularly conducts solicitation of business within the City;
5. Such person or person's employee performs work or renders services in the City on a regular and continuous basis involving more than five working days per year; and
6. Such person or person's employee utilizes the streets within the City in connection with the operation of motor vehicles for business purposes.

The foregoing specified activities shall not be a limitation on the meaning of engaged in business.

5.40.080 - Evidence of doing business.

Whenever any person shall, by use of signs, circulars, cards or any other advertising media, including the use of internet or telephone solicitation, represent that such person is engaged in business in the City, then these facts may be used as evidence that such person is engaged in business in the City.

5.40.090 - Gross receipts.

"Gross receipts," except as otherwise specifically provided, means the total amount actually received or receivable from all sales; the total amount or compensation actually received or receivable for the performance of any act or service, of whatever nature it may be, for which a charge is made or credit allowed, whether or not such act or service is done as a part of or in connection with the sale of materials, goods, wares or merchandise; discounts, rents, royalties, fees, commissions, dividends, and gains realized from trading in stocks or bonds, however

designated. Included in "gross receipts" shall be all receipts, cash, credits and property of any kind or nature, without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service costs, interest paid or payable, or losses or other expenses whatsoever, except that the following shall be excluded therefrom:

A. Cash discounts allowed and taken on sales;

B. Credit allowed on property accepted as part of the purchase price and which property may later be sold, at which time the sales price shall be included as gross receipts;

C. Any tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser;

D. Such part of the sale price of any property returned by purchasers to the seller as refunded by the seller by way of cash or credit allowances or return of refundable deposits previously included in gross receipts;

E. Receipts from investments where the holder of the investment receives only interest and/or dividends, royalties, annuities and gains from the sale exchange of stock or securities solely for a person's own account, not derived in the ordinary course of a business;

F. Receipts derived from the occasional sale of used, obsolete or surplus trade fixtures, machinery or other equipment used by the taxpayer in the regular course of the taxpayer's business;

G. Cash value of sales, trades or transactions between departments or units of the same business;

H. Whenever there are included within the gross receipts amounts which reflect sales for which credit is extended and such amount proved uncollectible in a subsequent year, those amounts may be excluded from the gross receipts in the year they prove to be uncollectible; provided, however, if the whole or portion of such amounts excluded as uncollectible are subsequently collected, they shall be included in the amount of gross receipts for the period when they are recovered;

I. Receipts of refundable deposits, except that such deposits when forfeited and taken into income of the business shall not be excluded when in excess of one dollar;

J. Amounts collected for others where the business is acting as an agent or trustee and to the extent that such amounts are paid to those for whom collected. These agents or trustees must provide the finance department with the names and the addresses of the others and the amounts paid to them. This exclusion shall not apply to any fees, percentages, or other payments retained by the agent or trustees.

"Gross receipts" subject to the business tax shall be that portion of gross receipts relating to business conducted within the City.

5.40.100 – Square foot.

The term "square foot" means the maximum amount of allowable canopy area for cannabis cultivation authorized by a City permit or license issued by the City to a person

engaged in business involving Commercial Cannabis Cultivation Activity, or by a state license in the absence of a City permit or license, not deducting for unutilized square footage.

5.40.110 - Cannabis.

The term "Cannabis" shall have the same meaning as that term is defined in Section 17.30.195(6) of the Rio Dell Municipal Code.

5.40.120 – Commercial Cannabis Activity.

The term "Commercial Cannabis Activity" means Commercial Cannabis Cultivation Activity, as that term is defined in Section 5.40.130, below, and/or Other Commercial Cannabis Activity, as that term is defined in Section 5.40.140, below.

5.40.130 – Commercial Cannabis Cultivation Activity.

The term "Commercial Cannabis Cultivation Activity" means activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of Cannabis in the City, by a person engaged in business. Without limiting the foregoing, a person is engaged in business involving Commercial Cannabis Cultivation Activity if he, she, or it is operating pursuant to a Type 1, Type 1A, Type 1B, Type 2, Type 2A, Type 2B, Type 3, Type 3A, Type 3B, and/or Type 4 license, as those license types are defined in Section 19300.7 of the California Business and Professions Code and/or Section 17.30.195 of this Code.

5.40.140 – Other Commercial Cannabis Activity.

The term "Other Commercial Cannabis Activity" means activity, other than Commercial Cannabis Cultivation Activity, involving transporting, distributing, manufacturing, testing, dispensing, wholesale, retail sales of Cannabis and any ancillary products in the City, or other commercial Cannabis activity the Council may permit or authorize in the future, by a person engaged in business. Without limiting the foregoing, a person is engaged in business involving Other Commercial Cannabis Activity if he, she, or it is operating pursuant to a Type 6, Type 7, Type 8, Type 10, Type 10A, Type 11, and/or Type 12 license, as those license types are defined in Section 19300.7 of the California Business and Professions Code and/or Section 17.30.195 of this Code.

5.40.150 - Cannabis business tax.

"Business tax" or "cannabis business tax" or "cannabis tax" shall mean the tax due for engaging in Commercial Cannabis Activity in the City.

5.40.160 - Person.

"Person" means, without limitation, any natural individual, organization, firm, trust, common law trust, estate, partnership of any kind, association, syndicate, club, joint stock company, joint venture, limited liability company, corporation (including foreign, domestic, and nonprofit), collective, cooperative, receiver, trustee, guardian, or other representative appointed by order of any court.

5.40.170 - Sale.

"Sale" means and includes any sale, exchange, or barter.

Part 2 - General Tax Provisions

5.40.200 - Other licenses, permits, taxes, fees or charges.

Nothing contained in this Chapter 5.40 shall be deemed to repeal, amend, be in lieu of, replace or in any way affect any requirements for any license or permit required by, under or by virtue of any provision of any other title or chapter of this Code or any other ordinance of the City or resolution of the City Council, nor be deemed to repeal, amend, be in lieu of, replace or in any way affect any tax, fee or other charge imposed, assessed or required by, under or by virtue of any other title or chapter of this Code including or any other ordinance of the City or resolution of the City Council. Any references made or contained in any other title or chapter of this Code to any licenses, license taxes, fees or charges, or to any schedule of license fees, shall be deemed to refer to the licenses, license taxes, fees or charges, or schedule of license fees, provided for in other titles or chapters of this Code.

5.40.210 - Business tax certificate—Required.

A. There are imposed upon all persons engaged in a business involving Commercial Cannabis Activity in the City taxes in the amounts prescribed in this chapter and Chapter 5.05. It shall be unlawful for any person, either for him or herself or for any other person, to commence, transact or carry on any Commercial Cannabis Activity in the City without first having procured a business license from the City under Chapter 5.05 and having paid the tax set forth therein, and without complying with any and all provisions contained in this chapter. The carrying on of any Commercial Cannabis Activity without complying with any and all provisions of this chapter and Chapter 5.05 shall constitute a separate violation of this chapter and Chapter 5.05 for each and every day that such activity is so carried on.

B. The business license required to be obtained under Chapter 5.05 and the taxes required to be paid under this chapter and Chapter 5.05 are declared to be required pursuant to the taxing power of the City solely for the purpose of obtaining revenue and are not regulatory permit fees.

5.40.220 - Payment of tax does not authorize unlawful business.

A. The payment of a business license tax required by this chapter, and its acceptance by the City, shall not entitle any person to carry on any Commercial Cannabis Activity unless the person has complied with all of the requirements of this Code and all other applicable laws, nor to carry on any such activity in any building or on any premises in the event that such building or premises are situated in a zone or locality in which the conduct of such Commercial Cannabis Activity is in violation of any law.

B. No tax paid under the provisions of this chapter shall be construed as authorizing the conduct or continuance of any illegal or unlawful business, or any business in violation of any ordinance of the City.

5.40.230 - Application—Form and contents.

Every person required to have a business license under the provisions of Chapter 5.05 shall make application for the same, or for renewal of the same, to the Director. Such application shall be a written statement upon a form or forms provided by the Director and shall be signed by the applicant under penalty of perjury. The application shall set forth such information as may be required and as may be reasonably necessary to properly determine the amount of the tax to be paid by the applicant under Chapter 5.05, together with such other information as is required by the Director to enable the Director to administer the provisions of this chapter.

5.40.240 - Payment—Location.

The tax imposed under this chapter shall be paid to the Director in lawful money of the United States, at the office of the Director, or any other location designated by the Director. Lawful money shall mean any coin, currency or negotiable instrument, exchangeable for said coin or currency, which the United States Congress has declared to be a national legal tender.

5.40.250 - Amount of business tax owed.

A. Tax Rate for Commercial Cannabis Cultivation Activity.

1. In addition to the business tax imposed under Chapter 5.05 of this Code and the requirements set forth therein, every person engaged in business involving Commercial Cannabis Cultivation Activity in the City shall pay a business tax at a rate of up to five dollars ($5.00) per Square Foot or at a rate of up to ten percent (10%) of Gross Receipts, as set and determined by the Council, in its discretion, by ordinance.

2. Notwithstanding the maximum tax rates imposed under Subsection A.1., above, the City Council may, in its discretion, at any time by ordinance, implement a lower tax rate for Commercial Cannabis Cultivation Activity or establish differing tax rates for different categories, including permit or license types, of Commercial Cannabis Cultivation Activity subject to the maximum rate. The City Council may, in its discretion, at any time by ordinance, increase any such tax rate(s) once per calendar year, provided that any such increase does not exceed one-fifth (1/5) of the maximum tax rate(s) established pursuant to Subsection A.1., above.

3. The initial tax rates imposed upon persons engaged in business involving Commercial Cannabis Cultivation Activity shall be as follows:

   (i) Two Dollars ($2.00) per Square Foot for persons issued a permit or license, other than a permit or license to operate a Nursery, to engage in greenhouse, mixed-light, and/or indoor cultivation of Cannabis, pursuant to Section 17.30.195 of the Code.

   (ii) Two Percent (2%) of Gross Receipts for persons issued a permit or license to operate a Nursery, pursuant to Section 17.30.195 of the Code.

B. Tax rate for Other Commercial Cannabis Activity.

1. In addition to the business tax imposed under Chapter 5.05 of this Code and the requirements set forth therein, every person engaged in business involving Other Commercial Cannabis Activity in the City shall pay a business tax at a rate of up to ten

percent (10%) of Gross Receipts, as set and determined by the Council, in its discretion, by ordinance..

2. Notwithstanding the maximum tax rate of ten percent (10%) of Gross Receipts imposed under Subsection B.1., the City Council may, in its discretion, at any time by ordinance, implement a lower tax rate for Other Commercial Cannabis Activity or establish differing tax rates for different categories, including permit or license types, of Other Commercial Cannabis Activity, subject to the maximum rate of ten percent of Gross Receipts. The City Council may, in its discretion, at any time by ordinance, increase any such tax rate(s) once per calendar year, provided that any such increase does not exceed one-fifth ($1/5^{th}$) of the maximum tax rate.

3. The initial tax rate imposed upon persons engaged in business involving Other Commercial Cannabis Activity shall be Two Percent (2%) of Gross Receipts.

5.40.260 - Payment—Time limits.

The business tax imposed by this chapter shall be due and payable as follows:

A. Each person engaged in business involving Commercial Cannabis Activity shall, on or before the last day of the month following the close of each fiscal year quarter, prepare and submit a tax statement on the form prescribed by the Director and remit to the Director the tax due. The tax due shall be no less than the quarterly installment due. Each person shall pay on or before the last day of the month following the close of each calendar quarter.

B. If the business tax is owed is based on Square Foot, as defined in Section 5.40.100, the tax statement may include a request for adjustment of the tax due to square foot authorized but not utilized for cultivation, and/or crop loss, along with evidence substantiating the square footage utilized and/or crop loss. The decision to prorate or adjust the tax will be made at the sole discretion of the City. A fee may be adopted by the City Council and collected by the Director to pay for the cost of investigating, verifying, and opining on such request for adjustment of the tax.

C. All tax statements shall be completed on forms prescribed by the Director.

D. Tax statements and payments for all outstanding taxes owed the City are immediately due to the Director upon cessation of business for any reason.

E. The Director may, at his or her discretion, establish shorter or longer report and payment periods for any taxpayer as the Director deems necessary to insure collection of the tax.

F. The Director may, as part of administering the tax and in his or her discretion, modify the form of payment and take such other administrative actions as needed to facilitate collection of the tax.

5.40.270 - Payment—When taxes deemed delinquent.

Unless otherwise specifically provided under other provisions of this chapter, the taxes required to be paid pursuant to this chapter shall be deemed delinquent if not paid on or before the due date specified in Section 5.40.260.

5.40.280 - Notice not required by City.

The Director is not required to send a delinquency or other notice or bill to any person subject to the provisions of this chapter and failure to send such notice or bill shall not affect the validity of any tax or penalty due under the provisions of this chapter.

5.40.290 - Payment—Penalty for delinquency.

A. Any person who fails or refuses to pay any business tax required to be paid pursuant to this chapter on or before the due date shall pay penalties and interest as follows:

   1. Original Delinquency. A penalty equal to twenty-five percent (25%) of the amount of the tax in addition to the amount of the tax, plus interest on the unpaid tax calculated from the due date of the tax at the rate of one percent per month or fraction thereof on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid; and

   2. Continued Delinquency. An additional penalty equal to twenty-five percent (25%) of the amount of the tax if the tax remains unpaid for a period exceeding one (1) calendar month beyond the due date, plus interest on the unpaid tax calculated at the rate of one percent (1%) per month or fraction thereof on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid.

B. Whenever a check is submitted in payment of a business tax and the check is subsequently returned unpaid by the bank upon which the check is drawn, and the check is not redeemed prior to the due date, the taxpayer will be liable for the tax amount due plus penalties and interest as provided for in this section plus any amount allowed under state law.

C. The business tax due shall be that amount due and payable from the first date on which the person was engaged in business involving Commercial Cannabis Activity in the City, together with applicable penalties and interest calculated in accordance with subsection A. above.

5.40.300 - Waiver of penalties.

The Director may waive the first and second penalties of twenty-five percent (25%) each imposed upon any person if:

A. The person provides evidence satisfactory to the Director that failure to pay timely was due to circumstances beyond the control of the person and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, and the person paid the delinquent business tax and accrued interest owed the City prior to applying to the Director for a waiver.

B. The waiver provisions specified in this subsection shall not apply to interest accrued on the delinquent tax and a waiver shall be granted only once during any twenty-four-month period.

5.40.310 - Refunds—Credits.

A. No refund shall be made of any tax collected pursuant to this chapter except as provided in Section 5.40.320.

B. No refund of any tax collected pursuant to this chapter shall be made because of the discontinuation, dissolution or other termination of a business.

C. Any person entitled to a refund of taxes paid pursuant to this chapter may elect in writing to have such refund applied as a credit against such person's business taxes for the next calendar month.

5.40.320 - Refunds and procedures.

A. Whenever the amount of any business tax, penalty or interest has been overpaid, paid more than once, or has been erroneously or illegally collected or received by the City under this chapter, it may be refunded to the claimant who paid the tax provided that a written claim for refund shall be presented to the Director within one year of the date of payment, and in the manner prescribed by Part 3 of Division 3.6 of Title 1 of the California Government Code (commencing with section 900 thereof) for the claims to which that part applies by its own terms, as those provisions now exist or shall hereafter be amended, and as further provided by this section.

B. All claims shall be made in writing and verified under the penalty of perjury by the claimant or by his or her guardian, conservator, executor or administrator. All tax refund claims shall be filed on the refund claim form prescribed by the Director. In the event that the Director has not prescribed a form of claim, the tax refund claim shall contain:

1. The information required by California Government Code Section 910; and
2. The specific amount claimed to have been overpaid, paid more than once, or erroneously or illegally collected or received by the City; and
3. The grounds upon which the claim is founded, with specificity sufficient to enable the Director and other responsible City officials to understand and evaluate the claim; and
4. Documentation supporting the amount of the refund sought.

The foregoing reference to Government Code Section 910 shall not be construed to authorize a class claim, and no claim may be filed on behalf of a class of persons unless verified by every member of that class.

C. The Director or the Director's authorized agent shall have the right to examine and audit all the books and business records of the claimant in order to determine the eligibility of the claimant to the claimed refund. No claim for refund shall be allowed if the claimant therefor refuses to allow such examination of claimant's books and business records after request by the Director to do so.

D. In the event that the business tax was erroneously paid and the error is attributable to the City, the entire amount of the tax erroneously paid shall be refunded to the claimant. If the error is attributable to the claimant, the City shall retain an administrative fee as set forth in a resolution of the City Council from the amount to be refunded to cover the City's expenses.

E. The Director shall initiate a refund of any business tax which has been overpaid or erroneously collected whenever the overpayment or erroneous collection is uncovered by a City audit of business tax receipts. In the event that the business tax was erroneously paid and the error is attributable to the City, the entire amount of the tax erroneously paid shall be refunded to the claimant. If the error is attributable to the claimant, the City shall retain an administrative fee as set forth in a resolution of the City Council from the amount to be refunded to cover the City's expenses.

F. In accordance with California Government Code sections 935(b) and 945.6, all claims shall be presented as provided in this section and acted upon by the City prior to the filing of any action on such claims and no such action may be maintained by a person who has not complied with the requirements of this section.

G. Any action brought against the City upon any claim or demand shall conform to the requirements of Sections 940 through 949 of the California Government Code. Any action brought against any employee of the City shall conform with the requirements of section 950 through 951 of the California Government Code.

Part 3 - Exemptions

5.40.400 - Exemptions—Application—Issuance condition.

Any person desiring to claim exemption from the payment of the tax set forth in this chapter shall make application therefore upon forms prescribed by the Director and shall furnish such information and make such affidavits as may be required by the Director.

5.40.410 - Exemptions—General.

Except as may be otherwise specifically provided in this chapter, the terms hereof shall not be deemed or construed to apply to any person when imposition of the tax upon that person would violate the Constitution of the United States or that of the state of California or preemptive federal or state law.

5.40.420 - Exemptions—Occasional transactions.

A. The provisions of this chapter shall not apply to persons having no fixed place of business within the City who come into the City for the purpose of transacting a specific item of business at the request of a specific patient, client or customer, provided that such person does not come into the City for the purpose of transacting business on more than five (5) days during any calendar year.

B. For any person not having a fixed place of business within the City who comes into the City for the purpose of transacting business and who is not exempt as provided in subsection A. of this section, the business tax payable by such person may be apportioned by the Director in accordance with Section 5.40.520.

Part 4 - Administration and Enforcement

5.40.500 - Enforcement—Duties of Director and Chief of Police.

It shall be the duty of the Director to enforce each and all of the provisions of this chapter, and the Chief of Police shall render such assistance in the enforcement of this chapter as may from time to time be required by the Director.

5.40.510 - Rules and regulations.

For purposes of apportionment as may be required by law and for purposes of administration and enforcement of this chapter generally, the Director, with the concurrence of the City Attorney, may from time to time promulgate administrative rules and regulations.

5.40.520 - Apportionment.

A. None of the tax provided for by this chapter shall be applied so as to occasion an undue burden upon interstate commerce or be violative of the equal protection and due process clauses of the Constitutions of the United States or the state of California.

B. If any case where a business tax is believed by a taxpayer to place an undue burden upon interstate commerce or be violative of such constitutional clauses, the taxpayer may apply to the Director for an adjustment of the tax. It shall be the taxpayer's obligation to request in writing for an adjustment within one (1) year after the date of payment of the tax. If the taxpayer does not request in writing within one (1) year from the date of payment, then taxpayer shall be conclusively deemed to have waived any adjustment for that year.

C. The taxpayer shall, by sworn statement and supporting testimony, show the method of business and the gross volume of business and such other information as the Director may deem necessary in order to determine the extent, if any, of such undue burden or violation. The Director shall then conduct an investigation, and shall fix as the tax for the taxpayer an amount that is reasonable and nondiscriminatory, or if the tax has already been paid, shall order a refund of the amount over and above the tax so fixed. In fixing the tax to be charged, the Director shall have the power to base the tax upon a percentage of gross receipts or any other measure which will assure that the tax assessed shall be uniform with that assessed on businesses of like nature, so long as the amount assessed does not exceed the tax as prescribed by this chapter.

D. Should the Director determine that the gross receipt measure of tax to be the proper basis, the Director may require the taxpayer to submit a sworn statement of the gross receipts and pay the amount of tax as determined by the Director.

5.40.530 - Audit and examination of records and equipment.

The Director shall have the power to audit and examine all business property, books and records of persons engaged in business involving Commercial Cannabis Activity including both state and federal income tax returns, California sales tax returns, or other evidence documenting the square foot and/or gross receipts of persons engaged in business involving Commercial Cannabis Activity, and, where necessary, all equipment, of any person engaged in such a business in the City, for the purpose of ascertaining the amount of business tax, if any, required

to be paid by the provisions hereof, and for the purpose of verifying any statements or any item thereof when filed by any person pursuant to the provisions of this chapter. If such person, after written demand by the Director, refuses to make available for audit, examination or verification such books, business property, records or equipment as the Director requests, the Director may, after full consideration of all information within his or her knowledge concerning the Commercial Cannabis Activity and activities of the person so refusing, make an assessment in the manner provided in Sections 5.40.560 through 5.40.580 of any taxes estimated to be due.

5.40.540 - Tax deemed debt to City.

The amount of any tax, penalties and interest imposed by the provisions of this chapter shall be deemed a debt to the City and any person carrying on any Commercial Cannabis Activity without first having procured a business license shall be liable in an action in the name of the City in any court of competent jurisdiction for the amount of the tax, and penalties and interest imposed on such business.

5.40.550 - Deficiency determinations.

If the Director is not satisfied that any statement filed as required under the provisions of this chapter is correct, or that the amount of tax is correctly computed, he or she may compute and determine the amount to be paid and make a deficiency determination upon the basis of the facts contained in the statement or upon the basis of any information in his or her possession or that may come into his or her possession. One or more deficiency determinations of the amount of tax due for a period or periods may be made. When a person discontinues engaging in a business, a deficiency determination may be made at any time within three (3) years thereafter as to any liability arising from engaging in such business whether or not a deficiency determination is issued prior to the date the tax would otherwise be due. Whenever a deficiency determination is made, a notice shall be given to the person concerned in the same manner as notices of assessment are given under Sections 5.40.560 through 5.40.580.

5.40.560 - Tax assessment—Authorized when nonpayment—Fraud.

A. Under any of the following circumstances, the Director may make and file a Notice of Assessment of the amount of tax owed by a person under this chapter:

   1. If the person has not filed any statement or return required under the provisions of this chapter;

   2. If the person has not paid any tax due under the provisions of this chapter;

   3. If the person has not, after demand by the Director, filed a corrected statement or return, or furnished to the Director adequate substantiation of the information contained in a statement or return already filed, or paid any additional amount of tax due under the provisions of this chapter;

   4. If the Director determines that the nonpayment of any business tax due under this chapter is due to fraud, a penalty of fifty percent of the amount of the tax shall be added thereto in addition to penalties and interest otherwise stated in this chapter.

B. The notice of assessment shall separately set forth the amount of any tax known by the Director to be due or estimated by the Director, after consideration of all information within

the Director's knowledge concerning the business and activities of the person assessed, to be due under each applicable section of this chapter, and shall include the amount of any penalties or interest accrued on each amount to the date of the notice of assessment.

5.40.570 - Tax assessment—Notice requirements.

The Notice of Assessment shall be served upon the person either by handing it to him or her personally, or by a deposit of the notice in the United States mail, postage prepaid thereon, addressed to the person at the address of the location of the business appearing on the face of the business license issued under Chapter 5.05 or to such other address as he or she shall register with the Director for the purpose of receiving notices provided under this chapter; or, should the person have no business license issued and should the person have no address registered with the Director for such purpose, then to such person's last known address. For the purposes of this section, a service by mail is complete at the time of deposit in the United States mail.

5.40.580 - Tax assessment—Hearing—Application and determination.

Within ten days after the date of service the person may apply in writing to the Director for a hearing on the assessment. If application for a hearing before the City is not made within the time herein prescribed, the tax assessed by the Director shall become final and conclusive. Within thirty days of the receipt of any such application for hearing, the Director shall cause the matter to be set for hearing before him or her not later than thirty (30) days after the date of application, unless a later date is agreed to by the Director and the person requesting the hearing. Notice of such hearing shall be given by the Director to the person requesting such hearing not later than five (5) days prior to such hearing. At such hearing said applicant may appear and offer evidence why the assessment as made by the Director should not be confirmed and fixed as the tax due. After such hearing the Director shall determine and reassess the proper tax to be charged and shall give written notice to the person in the manner prescribed in Section 5.40.570 for giving notice of assessment.

5.40.590 - Conviction for chapter violation—Taxes not waived.

The conviction and punishment of any person for failure to pay the required tax shall not excuse or exempt such person from any civil action for the tax debt unpaid at the time of such conviction. No civil action shall prevent a criminal prosecution for any violation of the provisions of this chapter or of any state law requiring the payment of all taxes.

5.40.600 - Violation deemed misdemeanor—Penalty.

Any person violating any of the provisions of this chapter or any regulation or rule passed in accordance herewith, or knowingly or intentionally misrepresenting to any officer or employee of the City any material fact in procuring the business license provided for in Chapter 5.05 shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not more than five hundred dollars ($500.00) or by imprisonment for a period of not more than six (6) months, or by both such fine and imprisonment.

5.40.610 - Effect of state and federal reference/authorization.

Unless specifically provided otherwise, any reference to a State or Federal statute in this chapter shall mean such statute as it may be amended from time to time, provided that such

reference to a statute herein shall not include any amendment thereto, or to any change of interpretation thereto by a State or Federal agency or court of law with the duty to interpret such law, to the extent that such amendment or change of interpretation would, under California law, require voter approval of such amendment or interpretation, or to the extent that such change would result in a tax decrease. To the extent voter approval would otherwise be required or a tax decrease would result, the prior version of the statute (or interpretation) shall remain applicable; for any application or situation that would not require voter approval or result in a decrease of a tax, provisions of the amended statute (or new interpretation) shall be applicable to the maximum possible extent.

To the extent that the City's authorization to collect or impose any tax imposed under this chapter is expanded as a result of changes in state or federal law, no amendment or modification of this chapter shall be required to conform the tax to those changes, and the tax shall be imposed and collected to the full extent of the authorization up to the full amount of the tax imposed under this chapter.

5.40.620 - Subject to annual City audits.

The revenues from the tax imposed by this chapter shall be subject to the annual audit performed by the City's independent auditor of the City's municipal books, records, accounts and fiscal procedures.

5.40.630 - Remedies cumulative.

All remedies and penalties prescribed by this chapter or which are available under any other provision of law or equity, including, but not limited to, the California False Claims Act (Government Code section 12650 et seq.) and the California Unfair Practices Act (Business and Professions Code section 17070 et seq.), are cumulative. The use of one or more remedies by the City shall not bar the use of any other remedy for the purpose of enforcing the provisions of this chapter.

5.40.640 - Amendment or repeal.

Chapter 5.40 of the Rio Dell Municipal Code may be repealed or amended by the City Council without a vote of the people. However, as required by Article XIIIC of the California Constitution, voter approval is required for any amendment provision that would increase the maximum rate of any tax levied pursuant to this chapter. The people of the City of Rio Dell affirm that the following actions shall not constitute an increase of the rate of a tax:

A. The restoration of the rate of the tax to a rate that is no higher than that set by this chapter, if the City Council has acted to reduce the rate of the tax;

B. An action that interprets or clarifies the methodology of the tax, or any definition applicable to the tax, so long as interpretation or clarification (even if contrary to some prior interpretation or clarification) is not inconsistent with the language of this chapter;

C. The establishment of a class of person that is exempt or excepted from the tax or the discontinuation of any such exemption or exception (other than the discontinuation of an exemption or exception specifically set forth in this chapter); or

D. The collection of the tax imposed by this chapter, even if the City had, for some period of time, failed to collect the tax.

5.40.650 – Severability.

Should any provision, section, paragraph, sentence or word of this ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences and words of this ordinance as hereby adopted shall remain in full force and effect.

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

For Meeting of: April 4, 2017

To: City Council

From: Kevin Caldwell, Community Development Director

Through: Kyle Knopp, City Manager

Date: March 29, 2017

Subject: Reintroduction of Ordinance No. 355-2017 amending Section 17.30.020 *Accessory Uses and Buildings* of the Rio Dell Municipal Code (RDMC) to include Cargo/Shipping Containers used as Accessory Structures.

Recommendation:

That the City Council:

1. Receive staff's report regarding the Planning Commission's recommendations amending Section 17.30.020 Accessory Uses and Buildings of the Rio Dell Municipal Code (RDMC) to address cargo/shipping containers; and

2. Open the public hearing, receive public input and deliberate; and

3. Reintroduce (first reading) an amended Ordinance No. 355-2017 amending Section 17.30.020 Accessory Uses and Buildings of the Rio Dell Municipal Code (RDMC) to (1) prohibit new cargo/shipping containers in residential zones and the Town Center zone; (2) establish developments standards for cargo/shipping containers in other zones and to (3) allow for exceptions by the Planning Commission when certain findings can be made and continue consideration, approval and adoption of the proposed Ordinance to your meeting of April 18, 2017 for the second reading and adoption.

Discussion

As the Council is aware, staff presented the Planning Commission's original recommendations to your Council at your meeting of March 7, 2017. The Planning Commission's recommendations included prohibiting cargo containers in all residential zones, including existing cargo containers. Based in large part to public testimony received at that Council

meeting, the Council directed staff to have the Planning Commission reconsider existing cargo containers in residential zones as legal non-conforming structures, provided they comply with the Commission's recommended development standards.

Also at your meeting of march 7, 2017 Councilmember Johnson indicated that he has three (3) acres and he could place a container that would not be visible from the street or to the neighbors. Although he has no plans to place a cargo container, he would like that option. This led to a discussion regarding exceptions for cargo containers in residential zones when the cargo containers on large parcels would not be visible. This is a very unique situation where a cargo container would not be visible from a public way or neighboring property.

At their meeting of March 28, 2017, the Planning Commission reconsidered their original recommendation and voted 4-1 with Commissioner Strahan dissenting to allow and recognize existing cargo containers as legal non-conforming uses, provided they comply with the following regulations:

17.30.020 (6) Cargo/Shipping Containers used as accessory structures in Suburban Residential, Urban Residential, Residential Multifamily, Suburban, Rural and Town Center zones are prohibited.

(a) Existing Cargo/Shipping Containers in Suburban Residential, Urban Residential, Residential Multifamily, Suburban, Rural zones on parcels 10,000 square feet or larger shall be considered legal non-conforming uses and/or structures comply with the following provisions:

(i) A Building Permit is required, electrical service is prohibited; and

(ii) Parcel must be developed with the primary use; and

(ii) No more than two (2) containers per parcel; and

(iv) Containers shall be no more than 8' x 20'; and

(v) Container must be placed on a gravel, decomposed granite or other all-weather surface as approved by the Director of Public Works; and

(vi) Unit(s) must be placed on the rear half of the parcel and screened from public view; and

(vii) Must not exceed allowable lot coverage; and

(viii) Must comply with the setback requirements of the zone; and

(ix) May not be placed within any easements; and

(x) Must be painted a solid neutral color (i.e. beige, taupe and browns) or a color(s) to match the residence; and

(xi) No signage is allowed on the container.

(b) Existing Cargo/Shipping Containers that do not comply with the above provisions shall not be considered a legal non-conforming use and/or structure and shall be relocated, removed and/or modified to comply with the provisions of this section within 180 days after adoption of the implementing ordinance.

The Planning Commission is also recommending Exception Provisions for the location (zones), location on a parcel and the number of allowed containers on a parcel. The Exception may be allowed through a Conditional Use permit (CUP) process which requires a Public Hearing and notification of all property owners within 300 feet of the project site. Below is a copy of the recommended Exception Provisions:

17.30.020 (11) Exceptions. The Planning Commission may modify by use permit, the number and/or location, including zoning designations, requirements of this part, upon a showing of good cause. For any such modification, the Planning Commission shall be required to make the following findings:

(a) The proposed location and/or modification will not adversely affect the-health, peace, comfort, or welfare of persons residing or working in the surrounding area;

(b) The proposed location and/or modification will not be materially detrimental to the use, enjoyment, or valuation of property of other persons located in the vicinity of the site; and

(c) The proposed location and/or modification will not jeopardize, endanger, or otherwise constitute a menace to the public health, safety, or general welfare.

(d) In issuing a use permit, the Planning Commission may require such changes or alterations as it may deem necessary to satisfy the findings specified in this part. Such changes or alterations may include, but shall not be limited to the following:

- Location
- Screening
- Setback from property line

Staff and the Planning Commission are also recommending that Chapter 17.10, Definitions of the RDMC be amended to include the following definition of "Cargo/Shipping Container":

Cargo/Shipping Container means a container made of steel or similar material which is designed for securing and protecting items for transport or storage. Cargo/Shipping containers include, but are not limited to, containers commonly used as shipping containers on ships and railroads, and/or tractor trailers, PODS (Portable On Demand Storage) and other similar units.

Procedural Requirements

Pursuant to Section 17.35.010 of the City of Rio Dell Municipal Code, the following City procedures are required to amend the Ordinance:

- An amendment may be initiated by one or more owners of property affected by the proposed amendment, as set out in Section 17.35.010(3), or by action of the Planning Commission, or the City Council.

- The application of one or more property owners for the initiation of an amendment shall be filed in the office of the City Clerk on a form provided, accompanied by a filing fee.

- Subject only to the rules regarding the placing of matters on the Planning Commission agenda, the matter shall be set for a public hearing.

- Notice of hearing time and place shall be published once in a newspaper of general circulation at least ten calendar days before the hearing or by posting in at least three public places.

- At the public hearing, the Planning Commission shall hear any person affected by the proposed amendment. The hearing may be continued from time to time.

- Within 40 days of the conclusion of the hearing, the Planning Commission shall submit to the City Council a written report of recommendations and reasons therefore.

- Subject only to the rules regarding the placing of matters on its agenda, the City Council, at its next regular meeting following the receipt of such report, shall cause the matter to be set for a public hearing. Notice of the time and place of the hearing shall be given as provided in Section 17.35.010(5), hereof.

- At the public hearing, the City Council shall hear any person affected by the proposed amendment. The hearing may be continued to a specified future date, but shall be concluded within 60 days of the commencement thereof.

- The City Council shall not make any change in the proposed amendment until the proposed change has been referred to the Planning Commission for a report, and the Planning Commission report has been filed with the City Council.

Zone Reclassification Required Findings

1. The proposed amendment is consistent and compatible with the General Plan and any implementation programs that may be affected.

There are a no polices in the General Plan which preclude or discourage the recommended minor text amendments. As such, the proposed amendments are consistent and compatible with the General Plan.

2. The proposed amendments have been processed in accordance with the California Environmental Quality Act (CEQA).

Based on the nature of the project, staff has determined that the project is Statutorily Exempt pursuant to Section 15061(b) (3) of the CEQA Guidelines, Title 14, Chapter 3 of the California Code of Regulations. Pursuant to Section 15061(b) (3) of the CEQA Guidelines this exemption is covered by the general rule that CEQA applies only to projects which have the potential for causing a ***significant*** effect on the environment. Where it can be seen with certainty that there is no possibility that the project in question may have a significant effect on the environment, the project is not subject to CEQA. Based on the nature of the proposed minor text amendments, staff believes there is no evidence to suggest that the minor amendments will have a ***significant*** effect on the environment.

Attachments

Attachment 1: Draft Ordinance No. 355-2017 amending Section 17.30.020 Accessory Uses and Buildings of the Rio Dell Municipal Code (RDMC) to (1) prohibit new cargo/shipping containers in residential zones and the Town Center zone; (2) establish developments standards for cargo/shipping containers in other zones and to (3) allow for exceptions by the Planning Commission when certain findings can be made.

ORDINANCE NO. 355-2017

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIO DELL AMENDING SECTION 17.30.020 ACCESSORY USES AND BUILDINGS OF THE RIO DELL MUNICIPAL CODE (RDMC) TO (1) PROHIBIT NEW CARGO/SHIPPING CONTAINERS IN RESIDENTIAL ZONES AND THE TOWN CENTER ZONE; (2) ESTABLISH DEVELOPMENTS STANDARDS FOR CARGO/SHIPPING CONTAINERS IN OTHER ZONES AND TO (3) ALLOW FOR EXCEPTIONS BY THE PLANNING COMMISSION WHEN CERTAIN FINDINGS CAN BE MADE.

THE CITY COUNCIL OF THE CITY OF RIO DELL ORDAINS AS FOLLOWS:

WHEREAS staff has been contacted a number of times the past few years from those who would like to place and utilize cargo/shipping containers on their parcels and those who have expressed concern regarding the visual appearance of cargo containers; and

WHEREAS the City does not currently have any regulations regarding the use of cargo/shipping containers used as accessory structures; and

WHEREAS shipping containers are an increasingly common sight in the City and throughout the nation; and

WHEREAS in response many jurisdictions have enacted regulations regarding the placement and use of cargo/shipping containers the past few years to protect the character of neighborhoods and communities, reduce the potential for health and safety hazards, maintain and protect the visual qualities and property values of an area; and

WHEREAS the Planning Commission recommends allowing cargo/shipping containers in certain zones subject to specific development standards intended to protect the character of neighborhoods and maintain and protect the visual qualities and property values of an area; 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 amendments is consistent and compatible with the General Plan and any implementation programs that may be affected; and

WHEREAS the proposed amendments have 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. Chapter 17.10, Definitions of the RDMC is amended to include the following definition of "Cargo/Shipping Container":

Cargo/Shipping Container means a container made of steel or similar material which is designed for securing and protecting items for transport or storage. Cargo/Shipping containers include, but are not limited to, containers commonly used as shipping containers on ships and railroads, and/or tractor trailers, PODS (Portable On Demand Storage) and other similar units.

Section 2. Section 17.30.020(2) of the Rio Dell Municipal Code is amended to read in as follows:

17.30.020 Accessory Uses and Buildings

(1) A use legally permitted in the zone that is accessory to and subordinate to the principal use of the site and serves a purpose which does not change the character of the principal use. Accessory uses, as defined herein, shall be permitted as appurtenant to any permitted use, without the necessity of securing a use permit, unless particularly provided in this chapter; provided, that no accessory use shall be conducted on any property in any urban residential, suburban residential or suburban zone unless and until the main building is erected and occupied, or until a use permit is secured. [Ord. 252 § 6.02, 2004.]

(2) Detached accessory buildings in suburban residential, urban residential, residential multifamily and suburban zones shall conform to the following development standards. See "Building Height" definition, Section 17.10.010.

(a) Maximum Building Height

(i) Fifteen feet (15') on lots 20,000 square feet or less.

(ii) Twenty feet (20') on lots larger than 20,000 square feet.

(b) Maximum Gross Floor Area

(i) 1,000 square feet on lots 20,000 square feet or less.
(ii) 1,500 square feet on lots larger than 20,000 square feet.

(3) Exceptions. The Planning Commission may modify by use permit, the height and floor area requirements of this part, upon a showing of good cause. For any such modification, the Planning Commission shall be required to make the following findings:

(a) The proposed modification will not adversely affect the-health, peace, comfort, or welfare of persons residing or working in the surrounding area;

(b) The proposed modification will not be materially detrimental to the use, enjoyment, or valuation of property of other persons located in the vicinity of the site; and

(c) The proposed modification will not jeopardize, endanger, or otherwise constitute a menace to the public health, safety, or general welfare.

(d) In issuing a use permit, the Planning Commission may require such changes or alterations to the building as it may deem necessary to satisfy the findings specified in this part. Such changes or alterations may include, but shall not be limited to the following:

- Building height
- Building area
- Setback from property line
- Screening or landscaping

(4) Detached accessory buildings may not be located within five feet of any main building, nor within five feet of a side line, nor as to encroach on any easement. Minimum yards: side, five feet, shall have the street side yard of 20 feet; rear, 10 feet.

(5) Detached accessory buildings used as second dwelling units shall not be located within 10 feet of lot lines or within five feet of an alley. The second dwelling unit shall be subject to the minimum yard requirements of the zoning district in which it is located.

(5) Accessory buildings attached to main buildings shall be structurally a part thereof and shall comply with main building yard requirements except as follows:

(a) A passive solar addition to a main building, as defined herein, may be permitted in the required front, rear, or side yard, except street side yard; provided, that no such addition shall reduce the distance between the main building and the front or rear property line to less than 15 feet, nor less than five feet from a side property line, and that no such addition shall occupy

more than five percent of the area of the front or rear yard, nor more than 10 percent of the side yard area. [Amended during 2010 codification; Ord. 252 § 6.21.5, 2004.]

(6) Cargo/Shipping Containers used as accessory structures in Suburban Residential, Urban Residential, Residential Multifamily, Suburban, Rural and Town Center zones are prohibited.

(a) Existing Cargo/Shipping Containers in Suburban Residential, Urban Residential, Residential Multifamily, Suburban, Rural zones on parcels 10,000 square feet or larger shall be considered legal non-conforming uses and/or structures comply with the following provisions:

(i) A Building Permit is required, electrical service is prohibited;

(ii) Parcel must be developed with the primary use;

(ii) No more than two (2) containers per parcel;

(iv) Containers shall be no more than 8' x 20';

(v) Container must be placed on a gravel, decomposed granite or other all-weather surface as approved by the Director of Public Works;

(vi) Unit(s) must be placed on the rear half of the parcel and screened from public view;

(vii) Must not exceed allowable lot coverage;

(viii) Must comply with the setback requirements of the zone;

(ix) May not be placed within any easements;

(x) Must be painted a solid neutral color (i.e. beige, taupe and browns) or a color(s) to match the residence;

(xi) Containers cannot be stacked;

(xii) No signage is allowed on the container;

(b) Existing Cargo/Shipping Containers that do not comply with the above provisions shall not be considered a legal non-conforming use and/or structure and shall be relocated, removed and/or modified to comply with the provisions of this section within 180 days after adoption of the implementing ordinance.

(8) Cargo/Shipping Containers used as accessory structures in Natural Resource zones shall conform with the following development standards:

(a) A Building Permit is required, electrical service is prohibited;

(b) Parcel must be developed with the primary use;

(b) No more than one (1) container per parcel;

(c) Container shall be no more than 8' x 20';

(d) Container must be placed on a gravel, decomposed granite or other all-weather surface as approved by the Director of Public Works;

(e) Unit(s) must be placed on the rear half of the parcel and screened from public view;

(f) Must not exceed allowable lot coverage;

(g) Must comply with the setback requirements of the zone;

(h) May not be placed within any easements;

(i) Must be painted a solid neutral color (i.e. beige, taupe and browns) or a color(s) to match the residence;

(j) No signage is allowed on the container;

(k) Containers cannot be stacked;

(l) Existing Cargo/Shipping Containers shall not be considered a legal non-conforming use and/or structure and shall be relocated, removed and/or modified to comply with the provisions of this section within 180 days after adoption of the implementing ordinance.

(9) Cargo/Shipping Containers used as accessory structures in Community Commercial and Neighborhood Center zones shall conform to the following development standards:

(a) The allowable number of containers on a parcel shall be based on the size of the parcel as follows:

Parcel Size	Number of Containers
10,000 square feet or less	1
10,001 to 20,000 square feet	2
20,000 to 1 acre	3
Parcels larger than 1 acre	4

(b) A Building Permit is required, electrical service is prohibited;

(c) Parcel must be developed with the primary use;

(d) Unit(s) must be placed on the rear half of the parcel and screened from public view;

(e) Container must be placed on a gravel, decomposed granite or other all-weather surface as approved by the Director of Public Works;

(f) Must not exceed allowable lot coverage;

(g) Must comply with the setback requirements of the zone;

(h) May not be placed within any easements;

(i Must be painted a solid neutral color (i.e. beige, taupe and browns) or a color(s) to match the primary building;

(j) Containers cannot be stacked;

(k) Existing Cargo/Shipping Containers shall not be considered a legal non-conforming use and/or structure and shall be relocated, removed and/or modified to comply with the provisions of this section within 180 days after adoption of the implementing ordinance.

(10) Cargo/Shipping Containers used as accessory structures in the Industrial Commercial zone shall conform to the following development standards:

(a) Parcel must be developed with the primary use;

(b) A Building Permit is required, electrical service is prohibited;

(c) Must not exceed allowable lot coverage;

(d) Must comply with the setback requirements of the zone;

(e) May not be placed within any easements;

(f) Container must be placed on a gravel, decomposed granite or other all-weather surface as approved by the Director of Public Works;

(g) Must be painted a solid neutral color (i.e. beige, taupe and browns) or a color(s) to match the primary building;

(h) No signage is allowed on the container;

(i) Containers cannot be stacked;

(j) Existing Cargo/Shipping Containers shall not be considered a legal non-conforming use and/or structure and shall be relocated, removed and/or modified to comply with the provisions of this section within 180 days after adoption of the implementing ordinance.

(11) Exceptions. The Planning Commission may modify by use permit, the number and/or location, including zoning designations, requirements of this part, upon a showing of good cause. For any such modification, the Planning Commission shall be required to make the following findings:

(a) The proposed location and/or modification will not adversely affect the-health, peace, comfort, or welfare of persons residing or working in the surrounding area;

(b) The proposed location and/or modification will not be materially detrimental to the use, enjoyment, or valuation of property of other persons located in the vicinity of the site; and

(c) The proposed location and/or modification will not jeopardize, endanger, or otherwise constitute a menace to the public health, safety, or general welfare.

(d) In issuing a use permit, the Planning Commission may require such changes or alterations as it may deem necessary to satisfy the findings specified in this part. Such changes or alterations may include, but shall not be limited to the following:

- Location
- Screening
- Setback from property line

Section 3. 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 4. 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 5. Effective Date

This ordinance becomes effective thirty (30) days after the date of its approval and adoption.

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 March 7, 2017 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 April 4, 2017 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. 355-2017 which was passed, approved and adopted at a regular meeting of the City Council of the City of Rio Dell, held on the April 4, 2017.

_____
Karen Dunham, City Clerk, City of Rio Dell

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

For Meeting of: April 4, 2017

To: City Council

From: Kevin Caldwell, Community Development Director

Through: Kyle Knopp, City Manager

Date: March 29, 2017

Subject: Introduction of Ordinance No. 356-2017 amending Chapter 13.05 Water Rates and Regulations to require that all residential dwellings, commercial and industrial buildings within the City be required to connect to the City's water system and have fees and charges established by Resolution.

Recommendation:

That the City Council:

1. Have staff introduce (first reading) Ordinance No. 356-2017 regarding amending Chapter 13.05 Water Rates and Regulations; and

2. Open the public hearing, receive public input and deliberate; and

3. Continue consideration, approval and adoption of the proposed Ordinance to your meeting of April 18, 2017 for the second reading and adoption.

Discussion

Staff recently discovered that there is no language in Chapter 13.05 Water Rates and Regulations that requires that all residential dwellings, commercial and industrial buildings within the City connect to the City's water system. As such, staff has amended Chapter 13.05 to require residential dwellings, commercial and industrial buildings within the City connect to the City's water system.

Staff also discovered that there are a number of fees identified in Chapter 13.05 that are outdated. Staff is recommending that the majority of the fees be established by Resolution of

the City Council. Only two penalty fee/charges provisions are recommended to be codified, Section 13.05.470 and Section 13.05.500. Below is a copy of the two referenced Sections:

~~13.05.460~~ 13.05.470 Warnings, civil fines and penalties.

Any person, business or corporation violating any provisions of this chapter or the water shortage contingency plan shall receive an immediate written warning from the City for the first offense. Civil fines and/or penalties shall be imposed should the first offense warning be ignored. Any person, business or corporation violating any of the provisions set forth in this chapter or the water shortage contingency plan shall be fined an amount of $250.00 for the second offense and $500.00 for the third or more offense. The City will have the authority to disconnect water service to any known violator. The City reserves the right to enforce the provisions of this chapter through any appropriate means, including but not limited to small claims court. Regardless of which procedure is chosen by the City, the penalty and/or judgment shall include reasonable enforcement costs to the City, including but not limited to staff time, court costs, and the City Attorney costs. [Ord. 241 § 46, 2000.]

~~13.05.490~~ 13.05.500 Criminal fines and penalties.

Any person, firm or corporation violating any of the provisions of this chapter or the water shortage contingency plan shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine not exceeding ~~$500.00~~ **$1000.00**, or by imprisonment in the County Jail of the County of Humboldt, State of California, for not more than six months, or by both fine and imprisonment. In addition, any defendant shall pay restitution to the City for staff, court and attorney costs for enforcement. [Ord. 241 § 49, 2000.]

The adoption of fees by Resolution only requires one reading and approval and does not require that Code Publishing update the Rio Dell Municipal Code (RDMC). Staff believes the recommended action would streamline the administrative burden of updating fees and eliminate the cost of updating the Municipal Code.

Attachments

Attachment 1: Draft Ordinance No. 356-2017 amending Chapter 13.05 Water Rates and Regulations to require that all residential dwellings, commercial and industrial buildings within the City be required to connect to the City's water system and have fees and charges established by Resolution.

ORDINANCE NO. 356-2017

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIO DELL AMENDING CHAPTER 13.05 WATER RATES AND REGULATIONS OF THE RIO DELL MUNICIPAL CODE (RDMC) TO REQUIRE THAT ALL RESIDENTIAL DWELLINGS, COMMERCIAL AND INDUSTRIAL BUILDINGS WITHIN THE CITY BE REQUIRED TO CONNECT TO THE CITY'S WATER SYSTEM AND HAVE FEES AND CHARGES ESTABLISHED BY RESOLUTION.

THE CITY COUNCIL OF THE CITY OF RIO DELL ORDAINS AS FOLLOWS:

WHEREAS the current Water Rates and Regulations do not require that all residential dwellings, commercial and industrial buildings within the City be required to connect to the City's water system; and

WHEREAS it is in the public interest to require that all residential dwellings, commercial and industrial buildings within the City be required to connect to the City's water system to help cover the cost of water delivery, water system maintenance, operations, administration, capital expenditures and/or debt service; and

WHEREAS the current rates and fees identified in Chapter 13.05 do not accurately reflect the actual adopted rates and fees; and

WHEREAS the City Council had adopted updated fees by Resolution rather than Ordinance; and

WHEREAS the adoption of fees by Resolution is not as administratively burdensome compared to adopting fees by Ordinance; and

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

Section 1. Chapter 13.05 Water Rates and Regulations is amended as follows:

Chapter 13.05
WATER RATES AND REGULATIONS

Sections:

Article I. General

13.05.010 Definitions.

13.05.020 Departmental rules and regulations – Modifying rates.

13.05.030 Settlement of disputes between consumer and City.

Article II. Connections – Installation of Service

13.05.040 **Connections.**

~~13.05.040~~ **13.05.050** Backflow preventer.

~~13.05.050~~ **13.05.060** Installation of shut-off valves.

~~13.05.060~~ **13.05.070** Distance of sewer or gas service from water service.

~~13.05.070~~ **13.05.080** Repairs to water mains, meters and lines by City.

~~13.05.080~~ **13.05.090** Shutting off water for repairs – Delinquent accounts.

~~13.05.090~~ **13.05.100** Right of entry of City employees for purpose of making inspections.

~~13.05.100~~ **13.05.110** Use of water in steam boilers, hydraulic elevators, power pumps, etc.

~~13.05.110~~ **13.05.120** Turning water off or on in an emergency.

~~13.05.120~~ **13.05.130** Unlawful use, injury, etc., of equipment.

~~13.05.130~~ **13.05.140** Application for service – Form.

~~13.05.140~~ **13.05.150** New service connection for multi-use motels and hotels.

13.05.150 **13.05.160** Fees for new service connections.

~~13.05.160~~ **13.05.170** Charges for installing meters.

~~13.05.170~~ 13.05.180 Installations and connections outside City limits.

~~13.05.180~~ 13.05.190 Prerequisites to multiple service connections.

~~13.05.190~~ 13.05.200 Turning on water without consent of Water Department prohibited.

~~13.05.200~~ 13.05.210 Use of water by contractors and other persons in construction work.

~~13.05.210~~ 13.05.220 Supplying to other than occupant of premises.

~~13.05.220~~ 13.05.230 Consumers to accept service conditions – Pressure maintenance.

Article III. Rates, Charges and Billings

~~13.05.230~~ 13.05.240 Rates and charges.

~~13.05.240~~ 13.05.250 Billing.

~~13.05.250~~ 13.05.260 Penalty.

~~13.05.260~~ 13.05.270 Discontinuance of service for non-payment.

~~13.05.270~~ 13.05.280 Reconnection fees.

~~13.05.280~~ 13.05.290 Procedure for restoring service after delinquency.

~~13.05.290~~ 13.05.300 Shut-off fee following unauthorized connection.

~~13.05.300~~ 13.05.310 Payment extension.

Article IV. Meters

~~13.05.310~~ 13.05.320 Meters to remain City property – Repairs by City.

~~13.05.320~~ 13.05.330 One meter to lot or parcel of land – Exception.

~~13.05.330~~ 13.05.340 Maximum size of meters.

~~13.05.340~~ 13.05.350 Connecting service pipe to meter – Premises to be left as originally found upon completion of tests – Notice to City – Liability of plumber/consumer.

~~13.05.350~~ 13.05.360 Bill to be rendered after connection.

~~13.05.360~~ 13.05.370 Liability of consumer for damages to meter.

~~13.05.370~~ 13.05.380 Cutting off or interfering with meter.

~~13.05.380~~ 13.05.390 Application for shutting off water on supply side of meter – Bill to be rendered.

Article V. Fire Hydrants

~~13.05.390~~ 13.05.400 Purpose of hydrants – Persons authorized to open.

~~13.05.400~~ 13.05.410 Taking water from hydrants generally.

~~13.05.410~~ 13.05.420 Replacing cap after use.

Article VI. Vacation Locks

~~13.05.420~~ 13.05.430 Vacation locks.

~~13.05.430~~ 13.05.440 Charges for vacation locks.

Article VII. Water Conservation – Water Shortage

~~13.05.440~~ 13.05.450 Water conservation.

~~13.05.450~~ 13.05.460 Water shortage.

~~13.05.460~~ 13.05.470 Warnings, civil fines and penalties.

~~13.05.470~~ 13.05.480 Enforcement.

Article VIII. General Provisions

~~13.05.480~~ 13.05.490 Constitutionality.

~~13.05.490~~ 13.05.500 Criminal fines and penalties.

13.05.010 Definitions.

For any purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

"Applicant" shall mean an owner of property who applies for water service to such property.

"Consumer" shall mean any person to whom the City supplies water services under a contract, either expressed or implied, to make payment therefor.

"Cost" shall include labor, material, transportation, expense, supervision, engineering and other administrative expense.

"Council" shall mean the City Council or the City Manager acting under authority of the City Council.

"Department" shall mean the water department of the City.

"Extension" shall mean a water main extension.

"Legal or equitable owner" shall mean any owner of record, mortgagee, trustee or contract purchaser of real property.

"Main" shall mean a water main in the water distribution system of the City without regard to sizing.

"Service connections" shall be understood to designate the laying of pipes from the main to the property line and meter inclusively. [Ord. 241 § 1, 2000.]

13.05.020 Departmental rules and regulations – Modifying rates.

The Council reserves the right and power from time to time to adopt rules and regulations for the operation and maintenance of the water department of the City, and for furnishing water to users, and may likewise establish and modify the rates, charges and penalties established and imposed by this chapter, and may from time to time prescribe rules for the extension of water mains within and beyond the boundaries of the City. [Ord. 241 § 2, 2000.]

13.05.030 Settlement of disputes between consumer and City.

If a dispute shall arise between any water consumer and the City concerning water service or the amount of water billed to such consumer, the dispute may be settled subject to the approval of the Council by the City Manager, unless otherwise authorized by the City Council. The final decision and settlement of any such dispute reviewed by the Council shall be recorded in the meeting minutes. The provisions and procedures provided for in this section are

permissive only and shall in no way affect the other provisions of this chapter. [Ord. 241 § 3, 2000.]

Article II. Connections – Installation of Service

13.05.040 Connections.

All residential dwellings, commercial and industrial buildings within the City shall be required to connect to the City's water systems.

~~13.05.040~~ 13.05.050 Backflow preventer.

If the placing of a check valve or cross connection control valve on the private property side of the water meter of any consumer is necessary in the opinion of the Director of Public Works for the safety and protection of the water system or appliances thereof, such consumer shall be notified in writing by the City to have such a valve installed, at his expense, and if after 10 days' written notice such valve has not been installed and working, then the service shall be discontinued and the water shut off until such valve is installed and the City notified, after which service will be restored only upon the payment of a ~~$50.00~~ reconnection ~~charge~~ **fee established by resolution of the City Council**. [Ord. 241 § 4, 2000.]

~~13.05.050~~ 13.05.060 Installation of shut-off valves.

Consumers of water shall install, at their own expense, a shut-off valve inside the property line at a location accessible to the employees of the City and its Water Department or as otherwise approved by the Director of Public Works, and City shutoffs at consumer request will be billed ~~at $35.00~~ **a fee established by resolution of the City Council**. [Ord. 241 § 5, 2000.]

~~13.05.060~~ 13.05.070 Distance of sewer or gas service from water service.

No sewer ditch, sewer pipe, gas pipe or any other service shall be installed or maintained nearer than two feet in any direction to any water service pipe, water main or water service meter of the City. [Ord. 241 § 6, 2000.]

~~13.05.070~~ 13.05.080 Repairs to water mains, meters and lines by City.

The City shall, at its own expense, make all repairs necessary to water mains, meters and pipe lines connecting with water mains. The City shall make no repair or do any work whatsoever on the water pipe line beyond the meter connection or on private property. [Ord. 241 § 7, 2000.]

~~13.05.080~~ 13.05.090 Shutting off water for repairs – Delinquent accounts.

The City reserves the right to shut off the water supply to any premises at any time without notice, for the purpose of making repairs, extensions or other necessary purposes, or for any

violation of this chapter, or any overdue payment, or delinquency of payment of any City utility service. [Ord. 241 § 8, 2000.]

~~13.05.090~~ 13.05.100 Right of entry of City employees for purpose of making inspections.

Any authorized employee of the City shall have reasonable access to any premises supplied with water for the purpose of making inspections of the water system and water meters upon such premises. Any person who, as owner or occupant of any premises, refuses admittance to, or hinders or prevents inspection by, an authorized employee of the City, after service of notice of intention, shall have all water shut off. [Ord. 241 § 9, 2000.]

~~13.05.100~~ 13.05.110 Use of water in steam boilers, hydraulic elevators, power pumps, etc.

It shall be unlawful for any person to draw any water from any pipes or water mains of the City directly into any stationary steam boiler, hydraulic elevator, power pump or similar apparatus. If a consumer shall desire water from the City to be used in any stationary steam boiler, hydraulic elevator, power pump or similar apparatus, the consumer must first apply therefor in writing to the City Engineer, and if a permit is granted, such consumer must provide a tank or reservoir of such capacity as is required by standard practice. No such tank or reservoir shall be installed or used unless and until the plans and specifications have been examined and approved in writing by the City Engineer. [Ord. 241 § 10, 2000.]

~~13.05.110~~ 13.05.120 Turning water off or on in an emergency.

The City shall have the right in an emergency to turn the water off or on without notice, but it shall be the duty of the Water Department to make a reasonable effort to notify all consumers that the water is to be turned off or on. [Ord. 241 § 11, 2000.]

~~13.05.120~~ 13.05.130 Unlawful use, injury, etc., of equipment.

It shall be unlawful for any person to open any fire hydrant, stopcock, gate valve, or to interfere in any manner with any street water service, water connection or any water meter attached to any service pipe connected with the water mains, or to turn on or off any water meter or water pipe of the City, or any reservoir of the City, or to tape any water service pipe, or take or draw water from any water main pipe or hydrant of the City without paying the established water rental therefor after having made written application therefor as provided by this chapter, or in any way to trespass upon the public property of the Water Department without written permission first being obtained from the Director of Public Works. [Ord. 241 § 12, 2000.]

~~13.05.130~~ 13.05.140 Application for service – Form.

Before any water will be supplied by the City to any person which requires a connection or reconnection from the City-owned water mains to water pipes on any real property, the occupant of the property shall make a written application for such service and service

connection upon a form provided by the City. If the consumer is not the owner of the property, the owner's name, address and telephone number shall be required on the application. [Ord. 241 § 13, 2000.]

~~13.05.140~~ 13.05.150 New service connection for multi-use motels and hotels.

New service connection fees for multi-use motels and hotels shall be ~~$110.00~~ **established by resolution of the City Council** for each said unit that has no more than one bathroom and no kitchen facilities ~~or $1,000, whichever is greater~~. Further, the number and sizing of services both on private property and to connection with the main supply line shall be subject to the sole approval of the Public Works Director. From the service connection fee, 80 percent shall be received into the water fund for purposes of operational expenditures, and 20 percent shall be received into the water fund for capital expenditure and debt service. [Ord. 241 § 14, 2000.]

~~13.05.150~~ 13.05.160 Fees for new service connections.

There shall be a new service connection fee ~~of $1,000~~ required for each individual dwelling, residence, building, or separate service to any multiple use consumer on any parcel or parcels under the same ownership. **The fee shall be established by resolution of the City Council.** This fee is levied in addition to any actual costs by the City to provide the new service. From the service connection fee, ~~$800.00~~ **80 percent** shall be received into the water fund for purposes of operational expenditures, and ~~$200.00~~ **20 percent** shall be received into the water fund for capital expenditure and debt service. [Ord. 241 § 15, 2000.]

~~13.05.160~~ 13.05.170 Charges for installing meters.

There shall be a charge set apart from any other charge or fee for the actual costs to the City for the installation, whether by force account or contract, of any water meter, encoder receiver transmitter, concrete or fiberglass box, or valve, etc., to provide water to any private property or other consumer; provided further, that such a charge shall be **established by resolution of the City Council** ~~a minimum of $200.00 or actual costs, whichever is higher~~. Meter sizes, locations and connections methods shall be at the sole discretion of the City Manager. [Ord. 296, 2012; Ord. 241 § 16, 2000.]

~~13.05.170~~ 13.05.180 Installations and connections outside City limits.

Notwithstanding any other sections, the connection fees and installation charges for outside the City limits shall be 150 percent of those same fees and charges for inside the City limits. [Ord. 241 § 17, 2000.]

~~13.05.180~~ 13.05.190 Prerequisites to multiple service connections.

No water shall be served to two or more parcels of property separately owned through a common service pipe. When more than one occupancy is placed on the same parcel of property

and each is conducting a separately established residence or business, a water meter shall be required and installed for each occupancy.

Where there is a pre-existing multiple use service from one meter, the City shall establish additional accounts and charges for each additional commercial, professional, dwelling, or living unit situated upon the premises not served by an individual meter, and the cost shall not be less than the established minimum for each such use in the multiple services. [Ord. 241 § 18, 2000.]

~~13.05.190~~ 13.05.200 Turning on water without consent of Water Department prohibited.

It shall be unlawful for any person to turn on the water after the same shall have been turned off. [Ord. 241 § 19, 2000.]

~~13.05.200~~ 13.05.210 Use of water by contractors and other persons in construction work.

Contractors or any person desiring to use water in construction work where connection must be made other than through a water meter shall in each and every case make written application for and obtain a written permit for the same from the Water Department before connecting with any water main, standpipe or using water therefrom, and shall make the deposit required by the Water Department to be used. Such permit shall be exhibited upon the work for which it has been issued during the full time the water is being used pursuant to such permit. [Ord. 241 § 20, 2000.]

~~13.05.210~~ 13.05.220 Supplying to other than occupant of premises.

It shall be unlawful for any person to supply water to any other person other than the occupants of the premises of such consumer as provided through an assigned meter. [Ord. 241 § 21, 2000.]

~~13.05.220~~ 13.05.230 Consumers to accept service conditions – Pressure maintenance.

All applicants for service connections or water service shall be required to accept such conditions of pressure and service as are provided by the distributing system at the location of the proposed service connection and to hold the department harmless from all damage arising from low pressure or high pressure conditions or interruptions of service. [Ord. 241 § 22, 2000.]

Article III. Rates, Charges and Billings

~~13.05.230~~ 13.05.240 Rates and charges.

The City Council shall establish fees, rates and charges by resolution to cover the cost of water delivery, water system maintenance, operations, administration, capital expenditures and/or debt service.

~~Rates effective with the passage of the ordinance codified in this section are:~~

~~(1) New rates will incorporate a $4.50 system fee that will be identified and used for capital expenditures or debt service.~~

~~(2) New rates will also incorporate $8.50 for use in water system maintenance and operations expenditures.~~

~~Elements (1) and (2) above are established as the base minimum monthly billing charge, at $13.00.~~

~~(3) There shall be charged $1.72 per each and every 100 cubic feet of water metered over and beyond a maximum amount of 600 cubic feet as recorded from one monthly meter reading to the following. The City Council has the authority to adjust the maximum usage allowance by resolution for seasonal purposes.~~

~~Element (3), excess usage rates, will also be used for water system operation costs.~~

~~(4) Mobile home parks are exempt from the foregoing rate structure and shall be billed as follows:~~

~~(a) A $6.50 per month per space (hook-up) system fee will be incorporated into monthly billing whether any water is used or not.~~

~~(b) A $50.00 per month meter rate will be charged when a single meter serves three or more spaces.~~

~~(c) A $1.72 per 100 cubic feet of water used in excess of 300 cubic feet times the number of spaces reserved.~~

~~(5) All rates, charges, fees and penalties contained in this chapter may be modified by resolution of the City Council of the City of Rio Dell to provide for future changes. [Ord. 241 § 23, 2000.]~~

~~13.05.240~~ 13.05.250 Billing.

(1) All water billing shall be monthly based on meter reading which will commence approximately six weekdays prior to the end of each month, with billings scheduled for posting and delivery on the first day of each month. Utility bills are due and payable no later than the last day of each month at Rio Dell City Hall.

The City may read water meters on a bimonthly basis. If a bimonthly meter reading schedule is established, monthly bills shall be calculated as set forth by resolution duly adopted by the City Council of the City of Rio Dell.

Utility bills not having been paid by the last day of the month shall be considered delinquent and no further notice is required other than the said next following billing reflecting two months of service are outstanding.

Should payment in full not be received within 10 calendar days from the said second billing, then shut-off notices shall be sent to the water customer and the water service discontinued until payment of all outstanding billings is made in full; provided further, that no such shut-off will occur on a Friday, weekend, or City holiday unless specifically directed by the Director of Public Works.

(2) Water service billing shall be assessed against the person or persons who reside in or otherwise occupy the premises being served and are identified as the same having completed an application for water service as a non-owner resident of the premises, and after **submitting a deposit as established by resolution of the City Council** ~~having deposited $30.00 surety~~ against any water charges sustained during the said non-owner's occupancy or control of the said premises, whereupon the said depositor shall receive a numbered receipt which shall be required to be presented at demand of all or any part of any refundable balance of said deposit remaining after any and all current water service charges have been deducted; provided, however, that the property owners shall be liable for any and all unpaid water service charges not paid by the said non-owners or remaining after full deposit amounts have been applied to any outstanding water service billings.

(3) Should any particular monthly meter reading not be possible, due to malfunctioning equipment, temporary inaccessibility or other reason that prohibits meter reading, each such account shall be billed for the total minimum rate until such time as the problem is resolved and monthly meter reading can be resumed. The City may remove any obstruction that prohibits meter reading at the sole expense of the consumer.

(4) In any case served by the Rio Dell water system, either in or outside of the City limits, that is not provided Rio Dell City water through a metered system shall pay the following monthly rates as minimum:

(a) Inside City limits, the same as RDMC ~~13.05.230~~ **13.05.240**.

(b) Outside City limits, 150 percent of the total minimum rate in effect in RDMC ~~13.05.230~~ **13.05.240**.

(5) City water users on meters outside the City limits shall pay for service as contained in RDMC ~~13.05.230~~ **13.05.240** at 150 percent thereof, and all other requirements of this chapter shall be enforceable as a condition of service thereto.

(6) Any water service situation not specifically covered in any section of this chapter will be reviewed and handled on a case-by-case basis as determined by the Public Works Director, with resultant fees, if involved, established on an equitable basis with those rates herein established.

(7) Failure to receive a bill does not relieve the consumer of liability for payment of any amounts due by this chapter. [Ord. 243 § 1, 2002; Ord. 241 § 24, 2000.]

~~13.05.250~~ 13.05.260 Penalty.

Rates and charges which are not paid on or before the date of delinquency shall be subject to a penalty of 10 percent, and thereafter shall be subject to a further penalty of one-half of one percent per month on the first day of each month following. [Ord. 241 § 25, 2000.]

~~13.05.260~~ 13.05.270 Discontinuance of service for non-payment.

In the event that any consumer shall be delinquent in the payment of his water bill, and in accordance with the provisions of RDMC ~~13.05.240~~ 13.05.250(1), the department shall have the right forthwith and without further notice to discontinue water service to the premises of such delinquent consumer. [Ord. 241 § 26, 2000.]

~~13.05.270~~ 13.05.280 Reconnection fees.

There shall be herewith established a connection fee for use when service is disconnected because of failure to pay City utility bills, payments are delinquent, or for other reasons including but not limited to vandalism of City-owned property, meters, or system piping, and when abandoned services are requested to be reactivated. The reconnection fee shall be **established by resolution by the City Council** ~~$35.00~~, plus actual costs involved in the reconnection. Reconnections requested between 4:00 p.m. and 8:00 a.m. on weekdays, any time on weekends or holidays, shall be assessed an additional ~~$40.00~~ fee **as established by resolution of the City Council**. [Ord. 241 § 27, 2000.]

~~13.05.280~~ 13.05.290 Procedure for restoring service after delinquency.

If water service is cut off or discontinued for failure to pay delinquent bills, or for any reason, such service may again be established only in the event the consumer or the owner of the premises served pays all delinquent bills and charges as may be required by this chapter. [Ord. 241 § 28, 2000.]

~~13.05.290~~ 13.05.300 Shut-off fee following unauthorized connection.

If any consumer has been found to connect to the Rio Dell water system without authorization, either without first establishing service or following disconnection for delinquency, the City shall disconnect said service and assess a penalty ~~of~~ **established by resolution of the City Council** ~~$400.00~~ plus costs. This penalty is in addition to any reconnection fees, penalties, outstanding utility bill balances and legal action that may be taken against said consumer. [Ord. 241 § 29, 2000.]

~~13.05.300~~ 13.05.310 Payment extension.

Every request that is made by a residential consumer for an extension of payment period of such bill asserted to be beyond the means of the customer to pay in full during the normal period for payment shall be reviewed by the City Manager or the City Manager's designee. The review shall include consideration of whether the consumer shall be permitted to amortize the unpaid balance of the account over a reasonable period of time, not to exceed six months. Granting of a payment extension is discretionary.

The City Manager is authorized to discontinue service to a residential consumer with an amortization agreement if the consumer fails to keep the account current as charges accrue in each subsequent billing period. [Ord. 241 § 30, 2000.]

Article IV. Meters

~~13.05.310~~ 13.05.320 Meters to remain City property – Repairs by City.

All water meters are the property of the City and the City will maintain and repair them when in its judgment such repairs are needed. [Ord. 241 § 31, 2000.]

~~13.05.320~~ 13.05.330 One meter to lot or parcel of land – Exception.

There shall be at least one meter on each lot or parcel of real property which is improved with a dwelling or building thereon, except where one building occupies more than one lot, then only one meter for such building shall be required. [Ord. 241 § 32, 2000.]

~~13.05.330~~ 13.05.340 Maximum size of meters.

No water meter larger than a one-inch meter shall be installed on any lot or to any consumer, except upon approval and consent of the Director of Public Works. [Ord. 241 § 33, 2000.]

~~13.05.340~~ 13.05.350 Connecting service pipe to meter – Premises to be left as originally found upon completion of tests – Notice to City – Liability of plumber/consumer.

When any plumber or any other person connecting a water service pipe to the property side of a meter uses water for testing the pipes, he must leave the service box in as good condition as found, and shall leave the water shut off, if found shut off, and shall in writing notify the City at the time the connection is made. Any damage caused by negligence or carelessness of any plumber or other person to any part of the meter box or connection must be paid by said plumber or person to the City on demand. [Ord. 241 § 34, 2000.]

~~13.05.350~~ 13.05.360 Bill to be rendered after connection.

The Water Department may connect a meter to any water service or service pipe at any time it shall deem expedient to do so, and render a corrected bill from the date of installation of such meter according to the meter rates and charges. [Ord. 241 § 35, 2000.]

~~13.05.360~~ 13.05.370 Liability of consumer for damages to meter.

After the water meter is so connected to the water service or service pipe, any damage to such meter, meter lock or service pipes resulting from malice, carelessness, or negligence or the consumer or any member of his family, anyone employed by him, or others, and any damage which may result from hot water or steam from a boiler, or otherwise, shall be paid for by such consumer to the City on presentation of a bill; and in case such bill is not paid, the water shall be shut off from the premises without further notice, and the same shall not be turned on until all charges are paid. [Ord. 241 § 36, 2000.]

~~13.05.370~~ 13.05.380 Cutting off or interfering with meter.

It shall be unlawful for any person to interfere with or cut off or remove a water meter from any water service where it has been installed without first receiving written permission from the Director of Public Works. Such permission shall be granted only for the purpose of tests, replacements, or repairs to meter or service pipes, readjustment of service or similar emergency. [Ord. 241 § 37, 2000.]

~~13.05.380~~ 13.05.390 Application for shutting off water on supply side of meter – Bill to be rendered.

Upon the written application of the owner of a building or premises to have the water shut off on the supply side of the meter, the City shall have the water shut off and at the time record the reading of the meter and render a bill in a sum which shall be the greater of the amount of water used according to the rates and charges provided for, or for the monthly minimum charge due for the fractional part of the month. [Ord. 241 § 38, 2000.]

Article V. Fire Hydrants

~~13.05.390~~ 13.05.400 Purpose of hydrants – Persons authorized to open.

Fire hydrants are provided for the sole purpose of extinguishing fires, and shall be opened and used only by the Fire Department or other officials of the City authorized to do so. [Ord. 241 § 39, 2000.]

~~13.05.400~~ 13.05.410 Taking water from hydrants generally.

Persons wishing to take a supply of water from a fire hydrant must make application to the Water Department for such service. The Department will make the necessary connections and install a meter of required size upon payment of a ~~$25.00~~ service charge **established by resolution of the City Council**.

When water is required for construction purposes of any type, upon making proper application a service connection will be made with a main or at a hydrant at the most accessible point to the construction work. When the connection is not sufficiently accessible and water must be taken to the work in a tank wagon or barrel, such supply shall be taken through the meter as installed. In no case will water be furnished for any purpose except through a meter, and unless paid for. [Ord. 241 § 40, 2000.]

~~13.05.410~~ 13.05.420 Replacing cap after use.

Every person authorized to open a fire hydrant shall replace the cap on the outlet when the same is not is use, and leave the hydrant in as good condition as when found, and such officer or person shall report to the Director of Public Works any leaks or breaks or damage to the fire hydrant immediately upon delivery. [Ord. 241 § 41, 2000.]

Article VI. Vacation Locks

~~13.05.420~~ 13.05.430 Vacation locks.

Water service may be discontinued to any premises at the written request of the consumer directed to the Water Department for a period of not less than 30 days. [Ord. 241 § 42, 2000.]

~~13.05.430~~ 13.05.440 Charges for vacation locks.

A charge ~~of $10.00~~ **established by resolution of the City Council** will be made for locking a meter at the request of the consumer. An additional ~~$10.00~~ charge **established by resolution of the City Council** will be charged before service is renewed. Neither charge will negate the system charge, however, which shall be billed monthly. [Ord. 241 § 43, 2000.]

Article VII. Water Conservation – Water Shortage

~~13.05.440~~ 13.05.450 Water conservation.

When the City determines that water conservation measures are necessary, the City Council will ask that water users conserve water. An official water conservation plan will be adopted by the City Council. Public service announcements will be made to inform the users via news media and public posting. [Ord. 241 § 44, 2000.]

~~13.05.450~~ 13.05.460 Water shortage.

When the City has determined that there is potential for a water shortage or when an emergency shortage occurs, City officials will take appropriate actions to conserve and ration water. The City will adopt and enact a water shortage contingency plan. [Ord. 241 § 45, 2000.]

~~13.05.460~~ 13.05.470 Warnings, civil fines and penalties.

Any person, business or corporation violating any provisions of this chapter or the water shortage contingency plan shall receive an immediate written warning from the City for the first offense. Civil fines and/or penalties shall be imposed should the first offense warning be ignored. Any person, business or corporation violating any of the provisions set forth in this chapter or the water shortage contingency plan shall be fined an amount of $250.00 for the second offense and $500.00 for the third or more offense. The City will have the authority to disconnect water service to any known violator. The City reserves the right to enforce the provisions of this chapter through any appropriate means, including but not limited to small claims court. Regardless of which procedure is chosen by the City, the penalty and/or judgment shall include reasonable enforcement costs to the City, including but not limited to staff time, court costs, and the City Attorney costs. [Ord. 241 § 46, 2000.]

~~13.05.470~~ 13.05.480 Enforcement.

Enforcement of water conservation measures shall be carried out by enforcement officers appointed by the City Manager. Enforcement officers shall issue citations. [Ord. 241 § 47, 2000.]

Article VIII. General Provisions

~~13.05.480~~ 13.05.490 Constitutionality.

If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this chapter. The City Council of the City of Rio Dell, State of California, hereby declares that it would have passed the ordinance codified in this chapter and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more sections, subsections, clauses or phrases be declared invalid or unconstitutional. [Ord. 241 § 48, 2000.]

~~13.05.490~~ 13.05.500 Criminal fines and penalties.

Any person, firm or corporation violating any of the provisions of this chapter or the water shortage contingency plan shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine not exceeding ~~$500.00~~ $1000.00, or by imprisonment in the County Jail of the County of Humboldt, State of California, for not more than six months, or

by both fine and imprisonment. In addition, any defendant shall pay restitution to the City for staff, court and attorney costs for enforcement. [Ord. 241 § 49, 2000.]

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 becomes effective thirty (30) days after the date of its approval and adoption.

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 April 4, 2017 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 April 8, 2017 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. 355-2017 which was passed, approved and adopted at a regular meeting of the City Council of the City of Rio Dell, held on the April 4, 2017.

_____
Karen Dunham, City Clerk, City of Rio Dell