



AGENDA
RIO DELL CITY COUNCIL
CLOSED SESSION - 5:00 P.M.
REGULAR MEETING - 6:30 P.M.
TUESDAY, MAY 16, 2017
CITY COUNCIL CHAMBERS
675 WILDWOOD AVENUE

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

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

- A. CALL TO ORDER
- B. ROLL CALL
- C. ANNOUNCEMENT OF ITEMS TO BE DISCUSSED IN CLOSED SESSION AS FOLLOWS:
 - 1) 2017/0516.01 - **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 of the Government Code)
 - 2) 2017/0516.02 - **Conference with Legal Counsel – Anticipated Litigation**
Initiation of Litigation (Pursuant to paragraph (4) of
Subdivision (d) of §59456.9 of the Government Code)
(one case)
- 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 members 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) 2017/0516.03 - Approve Minutes of the May 2, 2017 Regular Meeting
(ACTION) 1
- 2) 2017/0516.04 - Receive & File Check Register for April 2017 **(ACTION)** 10
- 3) 2017/0516.05 - Approve Resolution No. 1335-2017 Proposing a Commercial Cannabis Business Tax to the voters and requesting Consolidation with the General Election **(ACTION)** 13
- 4) 2017/0516.06 - Approve Designation of Mayor Pro Tem Johnson and Councilmember Garnes as the Voting Delegate and Alternate for the 2017 League of California Cities Annual Conference
(ACTION) 37
- 5) 2017/0516.07 - Approve First Amendment to the Water/Roadways Superintendent's Employment Agreement **(ACTION)** 39

L. ITEMS REMOVED FROM THE CONSENT CALENDAR

M. SPECIAL PRESENTATIONS/STUDY SESSIONS

N. SPECIAL CALL ITEMS/COMMUNITY AFFAIRS

- 1) 2017/0516.08 - Architectural Barrier Removal (ABR) Project Update
(DISCUSSION/POSSIBLE ACTION) 41
- 2) 2017/0516.09 - Discussion/Possible Adoption of FY 2017/18 Operating
and Capital Budget **(DISCUSSION/POSSIBLE ACTION)** 48

O. ORDINANCES/SPECIAL RESOLUTIONS/PUBLIC HEARINGS

- 1) 2017/0516.10 - Second Reading (by title only) and Adoption 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)** 54
- 2) 2017/0516.11 - Second Reading (by title only) and Adoption of Ordinance
No. 356-2017 amending Section 13.05 Water Rates and
Regulations to require that all new 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) 71

P. REPORTS/STAFF COMMUNICATIONS

Q. COUNCIL REPORTS/COMMUNICATIONS

R. ADJOURNMENT

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

**RIO DELL CITY COUNCIL
REGULAR MEETING
MAY 2, 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: (Closed Session) Mayor Wilson, Mayor Pro Tem Johnson, Councilmembers Garnes and Strahan, and City Manager Knopp

 Absent: Councilmember Marks (excused)

 Present: (Regular Meeting) Mayor Wilson, Mayor Pro Tem Johnson, Councilmember Strahan

 Absent: Councilmembers Garnes and Marks (excused)

 Others Present: City Manager Knopp, Finance Director Woodcox, Chief of Police Hill, Water/Roadways Superintendent Jensen and City Clerk Dunham

 Absent: Community Development Director Caldwell and Wastewater Superintendent Trainee Yapple (excused)

CLOSED SESSION

The Council recessed into closed session at 6:00 p.m. to discuss the following matter: ***Conference with Labor Negotiator – City Manager. Employee Organizations: Rio Dell Employees Association, Rio Dell Police Officers Association and all Contract Employees.***

The Council reconvened into open session at 6:30 p.m. Mayor Wilson announced there was no reportable action taken in closed session.

PUBLIC PRESENTATIONS

Nick Angeloff addressed the Council and said that he had just gotten off a conference call with Washington, D.C., Glenn White and Steve Dizaiy regarding a collaborative effort between a medical research facility with a database of 600 patients, mostly children who are being treated for epilepsy, seizures and other diseases which are presumed to be treatable with cannabis. He explained the idea is to hopefully work together and bring the medical research aspect of it into Rio Dell. He said they are all very excited about this collaborative effort and it looks like this will be something in the end, the City can be proud of with regard to specific medical research for these childhood diseases as well as PTSD (Post Traumatic Stress

Disorder) for veterans. He commented that they are looking at the aspect of housing with regard to the area being able to handle that amount of patients for larger scale studies.

Mayor Pro Tem Johnson commented that one of the things the City Council talked about last year when discussing medical cannabis was whether to change the land use designations to allow for medical cannabis related activities. He said the State of Colorado has been instrumental in this childhood treatment of epilepsy and they have been very successful with using as he recalls, a ratio of about 20 parts CBD's and one (1) part THC so there is very little psychoactive ingredients. He noted that in some cases it totally eliminated seizures for patients and in almost all cases diminished the frequency and severity of the seizures.

He said the problem they did have in Colorado is there are only about 10 acres that grow the mother plants and produce clones for the entire state and people from all over the United States go there for the treatments. He commended Glenn White and his group for their collaborative effort to bring the research and treatment to Rio Dell.

CONSENT CALENDAR

Motion was made by Johnson/Strahan to approve the consent calendar including approval of minutes of the April 18, 2017 regular meeting and to receive and file the Measure Z quarterly narrative. Motion carried 3-0.

SPECIAL CALL ITEMS

Police Department Update

Chief of Police Hill stated there were a few questions that came up after presentation of his annual police report which is the reason for the supplemental staff report. He said he hopefully addressed those questions in the report and asked if the Council had any additional questions.

Mayor Wilson said his question had to do with the body cameras and whether they are or are not operable.

Chief Hill explained that the cameras are not particularly reliable so what they have been doing is testing other cameras and so far looked at three (3) other manufacturers and will be looking at a fourth with **Taser** who is offering a one-year trial program. He stated for clarification that they have not agreed to adopt the trial program with **Taser** but are merely testing their camera at this point.

Mayor Wilson said his concern is that he heard about the problem with the cameras by reading it on the front page of the newspaper.

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Chief Hill took full responsibility for the confusion and said he typically gives press releases to the City Manager to review before releasing them to the press but in this instance, he didn't do that.

Mayor asked if there will be any refund on the purchase of the original cameras.

Chief Hill said there likely will be no refund.

City Manager Knopp noted that the report also includes an update on officer training.

Chief Hill reviewed training courses officers have taken over the last several months as well as upcoming training and reported that two Field Officers are signed up for a mandatory training update as well as a tactical entry class this month and a Taser Instructor Course next month.

Discussion on Town Holiday Decorations Proposal

City Manager Knopp provided a brief staff report and said at the last meeting, representatives from the Rio Dell-Scotia Chamber of Commerce presented a written proposal for holiday decorations and associated costs and the Council asked that the item be placed on this agenda for further discussion and possible action.

He advised the Council that one of the things that needs to be done related to holiday decorations if the Council decides to move forward with assisting the Chamber with this particular project is to also include removal of the old lights at Memorial Park to make sure the lights are not threatening the life of the trees. He said the cost for removal and replacement of the lights is not included in the proposed budget.

Mayor Wilson said that it seems the lights would need to be removed regardless of the pending proposal by the Chamber.

Mayor Pro Tem Johnson referred to Item (5) of the proposal by the Chamber for installation of eight lamp post banners along Wildwood Avenue and asked what kind of message will be on those banners.

Jim Brickley said it hasn't been decided but it likely would be something generic such as "Seasons Greetings" or "Happy Holidays" as opposed to "Merry Christmas" so as to not step on anyone's toes.

Mayor Pro Tem Johnson said that saying "Merry Christmas" is not stepping on any toes of this City Council.

Mr. Brickley then presented a rough sketch showing suggested locations for placement of the plywood cutouts.

He said as stated at the last meeting, the Chamber is requesting the City cover the cost of materials (\$2,450) with the labor to be donated by the Chamber.

Councilmember Strahan referred to Item (2) regarding installation of secular holiday theme painted plywood cutouts along Wildwood Avenue and asked if they had already selected the theme.

Mr. Brickley said the idea is to stick with generic type holiday cutouts similar to Fortuna's. He said regarding the banners, they will need to research if there is any liability with them being installed on PG&E's poles.

Mayor Wilson called for public comment on the proposal.

Dennis Wendt, Wendt Construction offered the City the use of his bucket truck for removal and possible replacement of the lights at Memorial Park.

Motion was made by Johnson/Strahan to approve the contribution of up to \$1,500 to the Rio Dell-Scotia Chamber of Commerce for 2017 holiday decorations. Motion carried 3-0.

Discussion/Possible Adoption of FY 2017/18 Operating and Capital Budget

Finance Director Woodcox stated that the power point presentation she is providing on the FY 2017/18 Operating and Capital Budget has had no changes since it was presented to the Council on April 18th. She reviewed the budget calendar reflecting May 2nd as the possible date for adoption of the budget and pointed out that since the budget does not have to be adopted until June 30, 2017, the Council essentially has three more regular meetings for possible adoption.

She proceeded with the power point presentation including a review of the proposed FY 2017/18 Operating and Capital Budget as presented at the last meeting with an overall proposed draw on reserves of \$446,675. She reiterated that the fund balances remain healthy with the exception of the Gas Tax Fund.

Mayor Pro Tem Johnson stated that he understands Governor Brown recently signed Senate Bill 1 which means there will be more money trickling down to the City at some point and asked the finance director if she has received any estimates on what the City will be receiving.

Finance Director Woodcox said her interpretation from the numbers she has seen is that the City will receive approximately \$40,000 the first year and when it finally reaches the full amount it will be around \$80,000 which essentially doubles the City's annual Gas Tax revenues.

Mayor Pro Tem Johnson asked if the \$40,000 has been factored into the proposed budget.

Finance Director Woodcox stated that she did not include it in the budget because of different estimates floating around and she didn't want to include it in the budget until she had a more definitive amount.

Councilmember Strahan requested a copy of the power point presentation and any other documents related to the budget not included in the Council packet.

Finance Director Woodcox commented that she would put copies of the presentation in all Council mailboxes.

Mayor Pro Tem Johnson asked if the budget as proposed includes any salary increases or adjustments to employee benefits.

Finance Director Woodcox said no increases were included as contract negotiations are still pending. She said if the Council were to adopt the budget tonight, staff would have to come back to Council with a budget amendment to cover any increases.

Mayor Wilson called for public comment on the FY 2017/18 Operating and Capital Budget as proposed.

Nick Angeloff said one thing that has been nagging at him since discussion of the budget at the last meeting is related to the purchase of a public works truck or perhaps one of the pieces of equipment. He said on this particular vehicle, a majority of the funding was coming out of the Sewer Fund with a minority of the funds coming out of the Water Fund although the use of the truck was being split. He noted that the Water Fund has a positive fund balance so asked for the logic behind the distribution of funding.

City Manager Knopp referred to the list of Capital Projects on page 25 of the packet and explained the truck in question is budgeted 40% out of Water, 40% out of Sewer with the remaining 20% out of Streets. He commented that the expenditure basically replaces two (2) older vehicles with one (1) new or newer light-duty utility truck.

Mayor Wilson said he would like to continue adoption of the budget to the next meeting or another meeting with a full Council.

Mayor Pro Tem Johnson agreed to continue the item to the next meeting with the inclusion of any agreed upon labor negotiation related costs included.

ORDINANCES/SPECIAL RESOLUTIONS/PUBLIC HEARINGS

Introduction and First Reading (by title only) of Ordinance No. 358-2017 Amending the City's Sign Regulations, Section 17.30.300 (e) of the Rio Dell Municipal Code (RDMC) to correct an error

City Manager Knopp provided a staff report in the absence of the Community Development Director and said staff recently discovered an error in the existing sign regulations, Section 17.30.300 of the Rio Dell Municipal Code (RDMC). He said the vast majority of the City's zoning regulations in 2004, including the sign regulations, were carried over from the original regulations however; staff recently discovered that appurtenant signs are restricted to the Community Commercial (CC) zone whereas; the original sign provisions applied to all commercial zones. As such, staff is recommending that the regulations include a provision that appurtenant illuminated signs are allowed in commercial zones, including the Town Center (TC), Neighborhood Center (NC), Community Commercial (CC), and the Industrial Commercial (IC) zones.

Mayor Pro Tem Johnson commented that the written staff report was very complete so he had no questions.

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

There being no public comment, the public hearing closed.

Motion was made by Johnson/Wilson to introduce and conduct the first reading (by title only) of Ordinance No. 358-2017 amending the City's Sign Regulations, Section 17.30.300(e) of the Rio Dell Municipal Code (RDMC) to correct an error. The motion failed by a vote of 2-1 with Councilmember Strahan dissenting.

Second Reading (by title only) and Adoption 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

City Manager Knopp provided a staff report in the absence of the Community Development Director Caldwell and said originally the intent of the amendment was to address the water connections at the Humboldt-Rio Dell Business Park when staff realized that there is no language in the City's Code 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 of the Rio Dell Municipal Code (RDMC) to require residential dwellings, commercial and industrial buildings within the city connect to the City's water system. He said the idea is to make sure new developments in the City are contributing to the City's water system.

Mayor Wilson referred to page 53 of the Council packet under (4) which states that "*City water users on meters outside the City limits shall pay for service as contained in RDMC 13.05.240 at 150 percent thereof.....*" and said he understood the 150 percent rate was eliminated with establishment of the Dinsmore Zone.

City Manager Knopp noted that he was correct.

Councilmember Strahan asked if this is being proposed because of the development on the north side of the river.

City Manager Knopp explained that one of the concerns is that the Metropolitan area is also the site for the City's backup water supply and anyone would be able to drill a well and pull from that aquifer. He said the developers are proposing extension of the City's water main and staff feels it is in the best interest of the developers and the City to get everyone to participate and utilize the City's municipal water supply.

Mayor Wilson asked if customers will still be allowed to have wells.

City Manager Knopp stated that they could, provide they also connect to the City's water system.

He said in light of the Mayor's observation regarding the 150 percent fee, staff is pulling this item and will bring it back for Council's consideration at a future date.

REPORTS/STAFF COMMUNICATIONS

City Manager Knopp provided a written City Manager update of recent activities and events. (Attachment 1 to these minutes).

Mayor Wilson said with regard to the City's ATP Project one of the concerns is that when vehicles are coming into town from the south there is a double set of lines where vehicles stop then they can either turn right onto Scenic or left onto Wildwood Ave. He said it was brought to his attention that because vehicles are required to stop so far back it's hard to see them and it makes it a dangerous situation when pulling out. He suggested the Stop sign be moved back to allow for better visibility.

Councilmember Strahan said that it is also her intersection and agreed that it is dangerous.

City Manager Knopp said he believes the plans as submitted actually shift the road over to the north side a little bit in order to provide additional room for some sidewalk modifications in that area. He noted that they will be setting a date for a meeting, not only for the City Council but for citizens who have concerns regarding that intersection so the engineers understand what

those concerns are. He said staff is continuing to work with GHD and the State to move that project forward.

Mayor Pro Tem Johnson asked if a local contractor is doing the slurry sealing and if work has resumed on the Wells Project.

City Manager Knopp indicated that the contractor is actually out of the Red Bluff area but has worked in the County on various projects. He said the Wells Project experienced a short delay due to weather but he received an email from Wahlund Construction today and they are scheduled to resume.

Mayor Wilson asked about the status of the Old Ranch Road Waterline Project and said that he had talked to one of the landowners who seemed very happy about the work.

City Manager Knopp noted that the project is now complete.

Finance Director Woodcox said she had nothing further to report as well as Chief of Police Hill and Water/Roadways Superintendent Jensen.

OTHER COUNCIL REPORTS

Mayor Pro Tem Johnson announced the League of California Cities will be holding their next quarterly meeting in Ft. Bragg on Friday, May 19th but unfortunately he will not be able to attend. He said the League meetings are a good deal and later in the summer they will be holding a meeting in Fortuna so for those Councilmembers that have not had the opportunity to attend a League meeting, there is the perfect opportunity.

Councilmember Strahan reported on her attendance at the Humboldt/Del Norte Hazardous Response Authority meeting and said they purchased a new vehicle for \$140,000 to clean up hazardous waste.

Mayor Wilson reported on his attendance at the Redwood Region Economic Development Commission (RREDC) meeting and said they went to the airport and met and through the discussion they talked about the growth of the airline industry and that many pilots will be reaching the age of 65 and being forced to retire. He said it is a good opportunity for young people who are pursuing a career noting that the estimated cost to acquire the necessary training is \$150,000 however; it also pays between \$150,000 - \$200,000/yr.

He also said as a member of Humboldt Waste Management Authority (HWMA) he gets updates on how they are doing with the Highway 101 closures and said Jill Duffy and her staff have worked very hard to get trucks moving north and east and this is kind of what goes on behind the scenes and most people don't realize what it takes. He said the facility can only hold about 5 days' worth of waste on the floor so with the road closures it created a lot of

issues for them to work out to get trucks through and Jill and her staff need to be commended for their efforts.

Mayor Pro Tem Johnson said Solid Waste of Willits was on the verge of bankruptcy in December when he attended the HWMA meeting and asked how that is going.

Mayor Wilson said they issued a proposal to the Board for an increase in rates and the Board was adamant about putting it out to bid if they were to do anything at all with the feeling that it was under bid in the first place. As such, he said it was not received well and they likely will be going out with Request for Proposals (RFP's).

ADJOURNMENT

Motion was made by Johnson/Wilson to adjourn the meeting at 7:28 p.m. to the May 16, 2017 regular meeting. Motion carried 3-0.

Frank Wilson, Mayor

Attest:

Karen Dunham, City Clerk

CITY OF RIO DELL CHECK REGISTER

General Checking - US Bank of California

<u>Check</u>	<u>Date</u>	<u>Vendor</u>	<u>Description</u>	<u>Check/Payment</u>
5658	4/06/2017	[6117] A-1 CLEANING SERVICE, LLC	MONTHLY CLEANING SERVICE FOR MARCH 2017	280.67
5659	4/06/2017	[5235] ADVANTAGE FINANCIAL SERVICES	DOCSTAR 3.12 SOFTWARE PACKAGE	343.08
5660	4/06/2017	[3975] AT&T - 5709	PHONE EXPENSES FOR MARCH 2017	481.32
5661	4/06/2017	[5330] CAPITAL ONE COMMERCIAL	YELLOW WRITING PADS	9.75
5662	4/06/2017	[2285] CC MARKET (1)	SUN DETERGENT POWDER	11.95
5663	4/06/2017	[6058] COSTA, SAMANTHA	CUSTOMER DEPOSIT REFUND	175.37
5664	4/06/2017	[3883] DARRYL J SELBY DBA SUPERIOR INSTALLS	EQUIPMENT FOR NEW POLICE VEHICLE	4,964.89
5665	4/06/2017	[5127] DELTA DENTAL	DENTAL INSURANCE FOR MAY 2017	2,254.66
5666	4/06/2017	[2366] EEL RIVER DISPOSAL INC	GARBAGE BAGS FOR MARCH 2017	377.25
5667	4/06/2017	[6165] JOSEPH R ENGLISH	MEALS PER DIEM TO ATTEND WASTEWATER TREATMENT	186.00
5668	4/06/2017	[6180] FIDELITY TITLE COMPANY	PRELIMINARY TITLE REPORT FOR 265 WILLOW LANE,	400.00
5669	4/06/2017	[2405] FORTUNA ACE HARDWARE	PLUMBING TUBING	61.15
5670	4/06/2017	[3180] JENSEN, RANDY	MEALS PER DIEM TO ATTEND WASTEWATER TREATMENT	46.00
5671	4/06/2017	[2546] MERCER FRASER CO., INC.	11.69 TONS 1/2" SC 250 ASPHALT CONCRETE; 11.6	1,403.49
5672	4/06/2017	[2569] NORTH COAST LABORATORIES, INC.	HALOACETIC ACIDS; TRIHALOMETHANES	535.00
5673	4/06/2017	[4393] NYLEX.net. Inc.	MONTHLY MAINTENANCE FOR APRIL 15, 2017 THROUG	1,120.00
5674	4/06/2017	[4338] QUILL CORPORATION	ONE PACK ADDING MACHINE TAPE; LOGITECH MOUSE;	52.81
5675	4/06/2017	[2657] RIO DELL EMPLOYEES ASSOC	DUES FOR QUARTER ENDING 3/31/17	62.00
5676	4/06/2017	[4525] SHERLOCK RECORDS MGMT	STORAGE SERVICE FOR MARCH 2017	108.00
5677	4/06/2017	[4699] SIERRA CHEMICAL CO	CONTAINER DEPOSIT REFUNDS	2,599.67
5678	4/06/2017	[2719] SWRCB OFFICE OF OPERATOR CERT	OPERATOR-IN-TRAINING APPLICATION FEE FOR WAST	170.00
5679	4/06/2017	[6030] UNRUH, AMBER	CUSTOMER DEPOSIT REFUND	180.70
5680	4/06/2017	[4310] CAMERON D YAPLE	MEALS PER DIEM TO ATTEND WASTEWATER TREATMENT	46.00
5681	4/13/2017	[0576] 101 AUTO PARTS	BATTERY	221.75
5682	4/13/2017	[6117] A-1 CLEANING SERVICE, LLC	MONTHLY CLEANING SERVICE FOR JANUARY 2017	329.60
5683	4/13/2017	[4109] ACCESS HUMBOLDT	SL FRANCHISE OVERSIGHT ON BEHALF OF LFA's PER	270.00
5684	4/13/2017	[6038] ACCURATE TERMITE & PEST SOLUTIONS	BI-MONTHLY PEST CONTROL @ 675 WILDWOOD AVE	245.00
5685	4/13/2017	[5381] ALTERNATIVE BUSINESS CONCEPTS	MONTHLY MAINTENANCE & COPY CHARGES FOR MARCH	576.53
5686	4/13/2017	[5330] CAPITAL ONE COMMERCIAL	SIX CASES COPY PAPER	208.73
5687	4/13/2017	[2293] CITY OF FORTUNA	POLICE DISPATCH SERVICES FOR APRIL 2017	2,075.00
5688	4/13/2017	[2302] CLYDE'S TOWING, INC.	VEHICLE ABATEMENT TOWING	750.00
5689	4/13/2017	[2303] COAST CENTRAL CREDIT UNION	POA DUES FOR PPE 3/31/17	120.00
5690	4/13/2017	[5177] AUSTIN H EVANS	CLOTHING ALLOWANCE REIMBURSEMENT	64.63

CITY OF RIO DELL CHECK REGISTER

General Checking - US Bank of California

5691	4/13/2017	[2396]	FERNBRIDGE TRACTOR & EQUIPMENT CO., JD - 1 GAL HYGARD OIL	33.68
5692	4/13/2017	[5052]	GHD, INC ENGINEERING SERVICES FOLLOW UP ON DIV OF DRIN	1,288.00
5693	4/13/2017	[2474]	HUMMEL TIRE & WHEEL, INC SERVICE CALL/FLAT TIRE REPAIR FOR JD BACKHOE	129.22
5694	4/13/2017	[3180]	JENSEN, RANDY MILEAGE TO ATTEND WWTP GRADE III TEST	184.04
5695	4/13/2017	[2551]	MIRANDA'S ANIMAL RESCUE ANIMAL CONTROL FOR MARCH 2017	1,000.00
5696	4/13/2017	[4908]	MITCHELL BRISSE DELANEY & VRIEZE LEGAL SERVICES FOR MARCH 2017	6,261.64
5697	4/13/2017	[5934]	NORTH COAST JOURNAL PUBLIC NOTICE ADVERTISEMENT INVITING BIDS FOR	382.50
5698	4/13/2017	[2569]	NORTH COAST LABORATORIES, INC. COLIFORM PRESENCE/ABSENCE; TOTAL COLIFORM BAC	410.00
5699	4/13/2017	[6100]	NORTHERN CALIFORNIA GLOVE NITRILE ORANGE GLOVES	54.46
5700	4/13/2017	[5730]	O & M INDUSTRIES CHECK FULTON BOILER SYSTEM & OTHER EQUIPMENT	76.00
5701	4/13/2017	[2603]	PG&E UTILITY EXPENSES FOR MARCH 2017	16,452.96
5702	4/13/2017	[6190]	R.F. MACDONALD CO DRYER PARTS	311.83
5703	4/13/2017	[5222]	R.J. RICCIARDI, INC PROFESSIONAL SERVICES FOR PERIOD ENDING MARCH	865.00
5704	4/13/2017	[6139]	ROOT 101 NURSERY REFUND FOR PLAN CHECK DEPOSIT FEE PAID TWICE	300.00
5705	4/13/2017	[2742]	SCOTIA TRUE VALUE HARDWARE WHITE TOILET SEAT; .21 OZ X-FINE GRAPHITE	116.12
5706	4/13/2017	[2693]	SHELTON'S AUTO LUBE FULL OIL CHANGE SERVICE FOR 2007 FORD CROWN V	56.99
5707	4/13/2017	[4570]	SHRED AWARE SHREDDING	70.00
5708	4/13/2017	[2682]	SMALL CITIES ORGANIZED RISK EFFORT QUARTERLY PREMIUM FOR WORKER'S COMPENSATION F	23,213.25
5709	4/13/2017	[6173]	VACMASTERS FINAL 50% ON SPOIL VAC MODEL #SPV800DT4/W 800	22,831.43
5710	4/13/2017	[2481]	VANTAGEPOINT TRANSFER AGENTS- RETIREMENT FOR PPE 3/31/17	5,344.55
5711	4/13/2017	[6037]	WELLS FARGO VENDOR FIN SERV XEROX COPIER PAYMENT FOR APRIL 2017	481.02
5712	4/13/2017	[2772]	WENDT CONSTRUCTION, INC WATER LEAK REPAIR ON MONUMENT ROAD	331.25
5713	4/21/2017	[3975]	AT&T - 5709 U-VERSE INTERNET SERVICE 3/16/17-4/15/17	75.88
5714	4/21/2017	[2237]	BANK OF AMERICA BUSINESS CARD NCUAQMD - 2017 BURN PERMIT	4,533.58
5715	4/21/2017	[4937]	CALIFORNIA DEPARTMENT OF SIGNALS & LIGHTING BILLING FOR JANUARY 2017 T	215.16
5716	4/21/2017	[5330]	CAPITAL ONE COMMERCIAL COFFEE	26.25
5717	4/21/2017	[2293]	CITY OF FORTUNA WWTP OPERATIONAL SERVICES FOR JANUARY-MARCH 2	525.19
5718	4/21/2017	[2411]	DEARBORN NATIONAL LIFE INSURANCE LIFE INSURANCE FOR MAY 2017	328.00
5719	4/21/2017	[2340]	DEPARTMENT OF JUSTICE ACCOUNTING BLOOD ALCOHOL ANALYSIS FOR MARCH 2017	35.00
5720	4/21/2017	[2356]	DOWNEY BRAND LLP LEGAL SERVICES FOR MARCH 2017	225.00
5721	4/21/2017	[6165]	JOSEPH R ENGLISH REIMBURSEMENT FOR LODGING TO ATTEND WWTP CERT	117.64
5722	4/21/2017	[2405]	FORTUNA ACE HARDWARE 100 EA TUBE V 5/8 ID X 7/80D X 100'; 250 TUBI	256.60
5723	4/21/2017	[2486]	INDUSTRIAL CHEM LABS LABOR & MATERIALS TO WASH AND BAKE, RECONDITI	367.32
5724	4/21/2017	[6153]	JZ CONTRACTING FINAL PAYMENT ON OLD RANCH ROAD WATERLINE REP	27,860.50

CITY OF RIO DELL CHECK REGISTER

General Checking - US Bank of California

5725	4/21/2017	[5942] KEENAN & ASSOCIATES	HEALTH INSURANCE FOR MAY 2017	16,568.12
5726	4/21/2017	[6113] ZELMA MOSIER	CUSTOMER DEPOSIT REFUND	183.74
5727	4/21/2017	[2569] NORTH COAST LABORATORIES, INC.	AMMONIA NITROGEN W/O DISTILLATION; HARDNESS;	479.00
5728	4/21/2017	[6100] NORTHERN CALIFORNIA GLOVE	BLACK NITRILE GLOVES	8.57
5729	4/21/2017	[6190] R.F. MACDONALD CO	IR SCANNER SIEMENS - BOILER FOR BIO SOLIDS	757.22
5730	4/21/2017	[2664] ROGERS MACHINERY INC	GOULDS AQUAVAR VARIABLE SPEED CONTROLLER FOR	6,253.13
5731	4/21/2017	[2694] SHELL OIL CO.	PW FUEL EXPENSES FOR MARCH 2017	2,042.56
5732	4/21/2017	[2319] SUDDENLINK COMMUNICATIONS	INTERNET SERVICE 4/10/17-5/9/17	134.95
5733	4/21/2017	[5166] VSP-VISION SERVICE PLAN	VISION INSURANCE FOR MAY 2017	341.16
5734	4/21/2017	[5108] WAHLUND CONSTRUCTION INC.	PAY REQUEST NO 3 FOR METROPOLITAN WELLS REDEV	27,274.37
5735	4/26/2017	[2719] SWRCB OFFICE OF OPERATOR CERT	WASTEWATER TEATMENT PLANT OPERATOR GRADE III	300.00
Total Checks/Deposits				189,833.88

5221	4/6/2017	WITHDRAWALS	DEPOSITED ITEM RETURNED	(125.00)
496-448	4/10/2017	ELECTRONIC FUNDS TRANSFER	EFT FOR EDD PAYROLL TAXES FOR PPE 03/31/2017	(1,735.17)
854048	4/10/2017	ELECTRONIC FUNDS TRANSFER	EFT FOR EFTPS PAYROLL TAXES FOR PPE 03/31/2017	(10,926.56)
1482	4/13/2017	WITHDRAWALS	DEPOSITED ITEM RETURNED	(308.52)
9424154	4/18/2017	WITHDRAWALS	BANK ANALYSIS FEE FOR APRIL 2017.	(47.93)
101	4/20/2017	WITHDRAWALS	DEPOSITED ITEM RETURNED	(210.38)
934853	4/21/2017	ELECTRONIC FUNDS TRANSFER	EFT FOR AFLAC FOR APRIL 2017	(290.70)
456-832	4/24/2017	ELECTRONIC FUNDS TRANSFER	EFT FOR EDD PAYROLL TAXES FOR PPE 04/14/2017	(1,690.61)
5156353	4/24/2017	ELECTRONIC FUNDS TRANSFER	EFT FOR EFTPS FOR PAYROLL TAXES FOR PPE 4/14/2017/	(10,622.74)
Total EFT's/Bank Withdrawals				(\$25,957.61)

TRX TO PR	4/4/2017	TRANSFER FROM CHECK TO PAYROLL ACCOUNT	TRANSFER TO PAYROLL ACCOUNT FOR PPE 3/31/2017	(\$28,408.16)
TRX TO PR	4/18/2017	TRANSFER FROM CHECK TO PAYROLL ACCOUNT	TRANSFER TO PAYROLL ACCOUNT FOR PPE 4/14/2017	(\$27,430.58)
Total Transfer Between Accounts				(\$55,838.74)

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



May 16, 2017

TO: Rio Dell City Council

FROM: Kyle Knopp, City Manager

SUBJECT: Approve Resolution No. 1335 Proposing a Commercial Cannabis Business Tax to the Voters and Requesting Consolidation with the General County Election

IT IS RECOMMENDED THAT THE CITY COUNCIL:

Approve Resolution No. 1335 (4/5 Vote Requirement)

BACKGROUND AND DISCUSSION

This item is a formal procedural correction for an item the Council heard, voted on and approved during its April 4, 2017 Council meeting.

Some confusion arose over the use of the words "and/or" in the staff report, resolution and ordinance. Upon the advice of the City Attorney, staff is returning with the City Attorney's recommended changes to Resolution 1329-2017 which are provided to the Council for approval under Resolution No. 1335-2017. These changes better reflect the direction of the Council and provide a greater degree of clarity for the general public. The City Attorney is not recommending changes to the language of the Ordinance itself.

///

RESOLUTION NO. 133529-2017



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 COMMERCIAL CANNABIS CULTIVATION ACTIVITY AND, FOR CERTAIN OTHER COMMERCIAL CANNABIS ACTIVITIES, 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 XIIC, 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 commercial cannabis cultivation activity and <u>for other commercial cannabis activity, a tax of up to ten percent of gross receipts be adopted for certain other cannabis activity,</u> 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

RESOLUTION NO. 1335-2017



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 COMMERCIAL CANNABIS CULTIVATION ACTIVITY AND, FOR CERTAIN OTHER COMMERCIAL CANNABIS ACTIVITIES, A TAX RATE OF UP TO TEN PERCENT (10%) OF GROSS RECEIPTS; 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 XIII C, 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 of up to five dollars per square foot of space utilized for certain commercial cannabis cultivation activity and, for other commercial cannabis activity, a tax of up to ten percent of gross receipts be adopted, with all proceeds placed in the City's General Fund to be used for any governmental purpose? 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 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 5th) 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 XIIC 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.

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



May 16, 2017

TO: Rio Dell City Council

FROM: Kyle Knopp, City Manager

SUBJECT: Designation of Mayor Pro Tem Gordon Johnson and Councilmember Debra
Garnes as the Voting Delegate and Alternative Voting Delegate for the 2017
League of California Cities Annual Conference.

IT IS RECOMMENDED THAT THE CITY COUNCIL:

Designate Mayor Pro Tem Gordon Johnson as the Voting Delegate and Councilmember Debra
Garnes as the Alternate Voting Delegate to the 2017 League of California Cities Annual
Conference.

BACKGROUND AND DISCUSSION

The League's 2017 Annual Conference is scheduled for September 13-15 in Sacramento. An
important part of the annual meeting is the Business Meeting wherein League members consider
and take action on resolutions that establish League policy. Designation of voting delegates via
resolution is required in order for the City to be represented.

**RESOLUTION NO. 1334-2017
RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF RIO DELL DESIGNATING A VOTING DELEGATE
FOR THE LEAGUE OF CALIFORNIA CITIES
2017 ANNUAL CONFERENCE**

WHEREAS, the League of California Cities bylaws requires the governing body to designate the City's voting delegate and up to two alternates; and

WHEREAS, Mayor Pro Tem Gordon Johnson was previously appointed by the City Council as representative to the League of California Cities with Councilmember Debra Garnes appointed as the alternate.

NOW, THEREFORE, the City Council of the City of Rio Dell does hereby resolve that ***Gordon Johnson, Mayor Pro Tem***, is hereby appointed to serve as the City's voting delegate at the League of California Cities Annual Conference on September 13-15, in Sacramento, California. ***Councilmember Debra Garnes*** is hereby appointed as the alternate voting delegate.

I HEREBY CERTIFY that the foregoing Resolution was duly introduced, passed and adopted at a regular meeting of the City Council of the City of Rio Dell, held on the 16th day of May, 2017 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Frank Wilson, Mayor

ATTEST:

Karen Dunham, City Clerk

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



May 16, 2017

TO: Rio Dell City Council

FROM: Kyle Knopp, City Manager

SUBJECT: Approval of First Amendment to the City of Rio Dell Water and Roadways
Superintendent Employment Agreement and Authorization for the City Manager
to Sign

IT IS RECOMMENDED THAT THE CITY COUNCIL:

Approve the amendment.

BACKGROUND AND DISCUSSION

The City of Rio Dell has been under an agreement with the City of Fortuna for the provision of Chief Plant Operator Services for the wastewater treatment plant. This agreement was made necessary by the departure of the City's long-time Chief Plant Operator on June 3, 2016. The City is required to have a Grade III operator designated as the Chief Plant Operator for our wastewater treatment facility. Recently, Water and Streets Superintendent Randy Jensen has obtained this qualification and it is anticipated that he will be able to assume the role required by law as the Chief Plant Operator for the Rio Dell Wastewater Treatment Plant.

The First Amendment will provide a temporary 5% compensation enhancement tied to the Water & Roadways Superintendent's designation as the wastewater treatment plant's Chief Plant Operator. This is not intended to be a long-term solution to the issue of placing a permanent Grade III certified operator as the Wastewater Superintendent.

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FIRST AMENDMENT TO CITY OF RIO DELL WATER AND ROADWAYS SUPERINTENDENT EMPLOYMENT AGREEMENT

This is the First Amendment to City of Rio Dell Water and Roadways Superintendent Employment Agreement (hereinafter this "First Amendment") is made and entered by and between the CITY OF RIO DELL, a municipal corporation of the State of California, hereinafter referred to as "Employer" and RANDY JENSEN hereinafter referred to as "Employee" or "Water and Roadways Superintendent", both of whom understand as follows:

RECITALS

- A. WHEREAS, Employer and Employee have both executed that certain written agreement entitled City of Rio Dell Water and Roadways Superintendent Employment Agreement (hereinafter the "Water and Roadways Superintendent Employment Agreement"), with both Employer's and Employee's execution date on December 6, 2016; and
- B. WHEREAS, Employer and Employee mutually intend to amend and modify the Water and Roadways Superintendent Employment Agreement as stated in this First Amendment; and
- C. WHEREAS, the City Council for the City of Rio Dell approved the Water and Roadways Superintendent Employment Agreement at its duly noticed public meeting occurring on December 6, 2016; and

NOW, THEREFORE, in consideration of the mutual covenants recited herein, Employer and Employee agree to amend and modify Water and Roadways Superintendent Employment Agreement as follows:

AGREEMENT

- 1. City shall authorize the City Manager to implement a temporary 5% increase in compensation to the Water & Roadways Superintendent while designated as the Chief Plant Operator for the Rio Dell Wastewater Treatment facility. This increase shall terminate upon the removal of the status of Chief Plant Operator for the Rio Dell Wastewater Treatment Facility from the responsibilities of the Water and Roadways Superintendent.

EMPLOYEE

	<u>5/10/17</u>
Randy Jensen, Water & Roadways Superintendent	Date

EMPLOYER

<hr/>	<hr/>
Kyle Knopp, City Manager	Date

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



For Meeting of: May 16, 2017

To: City Council
From: Kevin Caldwell, Community Development Director 
Through: Kyle Knopp, City Manager 
Date: May 11, 2017
Subject: Architectural Barrier Removal (ABR) Project City Hall.

Recommendation:

That the City Council:

1. Receive staff's report regarding possible ADA access improvements to City Hall, including the recently received bid from DCI Construction; and
2. Open the public hearing, receive public input and deliberate; and
3. Provide direction to staff.

Discussion

As the Council is aware staff has been pursuing possible ADA access improvements to City Hall. The project was to be funded with CDBG Program Income and the reaming \$58,000+/- PTA Grant funds for the Belleview/Ogle Drainage Study. Again, the City was required to expend the Program Income prior to accessing the remaining grant funds. The City has approximately \$210,000 of Program Income and remaining Grant funds combined. The City has until September of this year to spend down the Program Income fund and utilize the PTA grant funds.

We issued the Request For Qualifications (RFQ) in November of last year. Whitchurch Engineering was the lone submitter. As such we were obligated to pursue a Sole Source Procurement approval for the design from the Department of Housing and Community Development (HCD), which was subsequently approved. At that time Whitchurch in their response to the RFQ estimated the cost of the construction to be approximately \$80,000. Please note that staff estimated the cost, which included design and construction costs, in

October of last year to be between \$133,200 and \$181,700, which included a 20% contingency. Please see Attachment 1.

Whitchurch completed the plans, including an opinion of probable cost in the first part of March of this year. A copy of the cover letter which includes their opinion of probable costs is included as Attachment 2. At that time Whitchurch's opinion of probable costs was \$235,000.

Whitchurch was working with DCI construction in developing their opinion of probable costs. In an estimate dated February 16, 2017, at that time DCI estimated the costs of the project to be \$243,984.

Staff released and published the Request For Proposals (RFP) on March 20th and held a mandatory pre-bid meeting on April 3rd. Only DCI Construction attended the mandatory meeting. Staff was expecting the Pierson Company to bid on the project as well. In addition, there was one out of town company that contacted staff regarding the project. In speaking with other local contractors, they indicated that they were just too busy to make a bid and complete the project as scheduled. In any event, DCI submitted their proposal on April 28th. Their bid is \$296,785.

Although staff referred the RFP to HCD for their review and approval, in speaking with the County CDBG representative, a few of the project items will likely not be approved as part of the Architectural Barrier Removal (ABR) project. Apparently HCD reviews projects in detail at the back-end of the project. As such, if the Council would like to incorporate those times into the project the City would be responsible for the costs. These items include:

	Description	Cost
1.	Replacement of seven (7) large windows along the front of the building along the access route.	\$11,800
2.	Parking striping and signage	\$2,460
3.	Installation of ten (10) twelve (12) foot 150 watt LED parking lot light fixtures.	\$11,900
4.	Installation of ten (10) accent lights along the ramp foundation wall.	\$7,850
5.	Relocate existing landscape plantings.	\$1,075
	Total	\$35,085

Removing the elective costs from the project reduces the cost of the ABR project to \$261,700. Should the Council want to include the elective elements, the City would be responsible for the costs.

Because there was only one bid, should the City want to pursue the project we would have to request a Sole Source approval from HCD. We're hopeful we would receive approval, given that most of the contractor's in the area are extremely busy and the compressed schedule in

order to utilize the remaining grant funds. Staff's only concern is the cost difference between the initial estimates and the final bid price.

Options

1. Not pursue the project; or
2. Pursue the project, requesting Sole Source approval without the elective elements; or
3. Pursue the project, requesting Sole Source approval with the elective elements

Attachments

Attachment 1: Staff's estimated Costs dated October 24, 2016.

Attachment 2: Whitchurch's estimated costs dated March 3, 2017.

Attachment 3: DCI Construction Bid costs dated April 28, 2017.



October 24, 2016

Max Emami
 State of California Department of Housing & Community Development
 CDBG Program
 2020 West El Camino Avenue, Suite 500
 Sacramento, CA. 95833

RE: City Hall ABR Project Cost Estimate and Timeline

Dear Max:

Pursuant to your recent request regarding the project cost estimate and timeline, please see the estimates below. Obviously, the cost estimates are subject to change once we receive the RFP bids.

Estimated Costs	
Task	Estimated Costs
Design Services/Engineering	\$10,000 - \$15,000
Mobilization	\$3,500 - \$5,000
Demolition	\$3,500 - \$5,000
Remove, Relocate and Replace Landscaping	\$2,000 - \$2,500
Construction, includes concrete ramp, walkways, stairs, rails, guardrails, tempered windows along walkway and three (3) activated entry doors to the Council Chambers, City Hall and the Police Department.	\$90,000 - \$120,000
Prevailing Wage Monitoring	\$2,000 - \$4,000
Estimated Design/Construction Costs	\$111,000 - \$151,500
20% Cost Contingency	\$22,200 - \$30,200
Total Estimated Design/Construction Costs	\$133,200 - \$181,700

Design Services/Engineering RFQ Schedule	
Solicit Bids	October 31, 2016
Mandatory Information Meeting/Site Visit	November 10, 2016
Proposals Due/Opening	December 2, 2016
Staff Consultant Negotiations/Recommendation	December 5 - 9, 2016
Council Action to Award	December 20, 2016
Contract Start Date	December 21, 2016
Project Deliverables – 45 Days from Contract Date	February 3, 2017



**WHITCHURCH
ENGINEERING**

512-725-6925
Fax: 512-725-6925
Phone: 737-725-6925

March 31st, 2017

Kyle Knopp
City Manager
675 Wildwood Avenue
Rio Dell, CA 95557

RE: Architectural Barrier Removal Project
Opinion of Probable Costs
Rio Dell City Hall

JN: COR1701

Mr. Knopp and Mr. Caldwell,

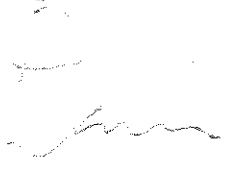
Whitchurch Engineering Inc, worked with a local contractor for Prevailing Wage Opinion of Probable Costs for the above mentioned project. The costs are based on local State Prevailing Wage per the Davis Bacon Act and legacy knowledge of similar projects in similar locations. Per our contract, I have broken the estimate into (1) Demolition, (2) Construction of Ramp/Stairs, walkway, and replacement windows (3) Installation of accessible compliant entry doors to the main entrance, Council Chamber, and the Police Department.

Whitchurch Engineering, Inc.'s Opinion of Probable Costs for the City of Rio Dell Architectural Barrier Removal Project:

1. Demolition - \$30,000
2. Construction of Ramp/Stairs, walkway and replacement windows - \$180,000
3. Installation of ADA compliant entry doors - \$25,000
4. The costs do not include: landscaping, restriping of parking, signage, lighting, or temporary access facilitation.

If you have any questions, comments or concerns, please do not hesitate to contact me or Chad Pasquinelli with the Fortuna office.

Thank you,


Darren Tully, P.E.
ACE #73755
DPT m's

DCI BID

Task	Labor	Materials	Equipment	Mgmt	Cost Allow	TOTAL	Comments
Mobilization	2,000	500	375	6,500		9,375	supervise/bond/site requirements
Demolition/Disposal	12,000	3,500	3,200			18,700	
Site Prep/Layout	1,600	150				1,750	
Footing Excavation	3,000	100	800			3,900	
Forming includes access openings and underfloor vents	50,000	1,750	300			54,050	
Relocate/extend exterior plumbing features	2,200	500	200			2,900	
Rebar/Ties	10,400	3,800	150			14,350	per plans & spec
Fill Material	8,000	7,500	600			16,100	compacted gravel
Concrete Pour and Finish, includes ramps, decks, accessible pathways from parking lot and to sidewalk north of City Hall	29,200	16,000	275			45,475	all concrete pouring and finishing, no color, standard concrete mix design 2500 PSI
Strip Forms	2,200	500	250			2,950	
Stamp Walls, Wood grain pattern	8,500	9,000				17,500	adder for decorative panels only; no adder for colored concrete
Metal Fabrication- Black Powder Coated Guardrails and Handrails	1,400	39,250				40,650	change from powder coated to painted hot dipped galvanized
Installation including necessary framing of ADA Automatic Doors for Council Chambers, Main Entrance and Police Dept Entrance	1,000	23,500				24,500	2 new doors and frames, existing double doors to remain. 3 panic hardware & handicap operators complete, new coat sign at door location

Per replacement

CITY OF RIO DEL ARB BID PACKAGE MARCH 2017

Task	Labor	Materials- DCI	Equip- DCI	Mgmt	Cost Allow	TOTAL	Comments
Replacement of Windows along front of City Hall (ADA compliant)	4,000	7,800				11,800	7 windows total, tempered bottom/slider top, bronze frame, vinyl tint glass
Parking AND striping and signage	200	100		360	1,800	2,460	one ADA parking space, 1 parking space
Installation of ten (10) 12" x 150 watt LED black parking lot light fixtures	1,200	10,500	200			11,900	4 1/2 light posts, & lights, pole foundation & hook up
Installation of ten accent lights along ramp foundation wall	600	7,250				7,850	10 landscape wall lights installed on concrete wall
Relocate existing landscape plantings	800	125	150			1,075	relocate 2 existing trees
Provide temporary access to City Hall during construction	4,000	1,500				4,500	temp guardrail during construction access to bldg
Plumbing							with plumbing relocate
Electrical							with light pole & landscape lighting
TOTALS	146,300	135,325	6,500	6,860	1,800	296,785	

Don't forget 4/10/17

Bidder acknowledges having received and included in the Bid herein the following Addendum:

None

Description:

Furnish all labor, materials, equipment, mechanical workmanship, transportation, and services, to be used and employed in the construction the complete project in accordance with the plans and specifications.

It is further understood and agreed that:

The owner reserves the right to eliminate any section of this proposal from the Contract without claim of the Contractor for profits lost.

\$35,085.00 1/9/17

CITY OF RIO DELLARIB BID PACKAGE MARCH 2017

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
May 16, 2017**

TO: Mayor and Members of the City Council

THROUGH: Kyle Knopp, City Manager

FROM: Brooke Woodcox, Finance Director

DATE: May 16, 2017

SUBJECT: Discussion/Possible Adoption of FY 2017/18 Operating and Capital Budget

RECOMMENDATION

1. Review the Staff report and attached information; and
2. Receive public input, discuss and deliberate adoption of FY 2017/18 Budget
3. Adopt Resolution 1333-2017 Operating and Capital Budget for fiscal year 2017/18
OR
4. Continue budget discussions and adoption at a later date
OR
5. Provide staff with budgetary changes to be brought back at a later date

BACKGROUND AND DISCUSSION

On April 4th, 2017 the City's financial status and general outlook was presented as a context for the coming fiscal year's 2017/18 Operating and Capital budget for the City of Rio Dell . The proposed budget was officially presented April 18th, 2017 and May 2nd, 2017. This is the third meeting that the budget has been presented for Council's approval. The proposed budget has not changed since it was first presented on April 18th, 2017 at a regularly scheduled Council.

Staff recommends that Council adopt the budget no later than June 20th, 2017 at their regularly scheduled Council meeting.

BUDGETARY IMPACT

Total expenditures are \$4,119,688 (operating expenditures \$2,781,388; debt service and pass-thru amounts \$550,300; and capital projects \$788,000); revenues are \$3,673,014. This is a draw on reserves of \$446,675. Fund balances remain healthy, with the exception of the Gas Tax Fund.

ATTACHMENTS

Resolution 1333-2017 Fiscal Year 2017/18 Operating and Capital Budget
Capital Projects Listed by Fund

RESOLUTION NO. 1333-2017
A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF RIO DELL
ADOPTING THE OPERATING & CAPITAL BUDGET
FOR THE FISCAL-YEAR 2017-2018

WHEREAS, the City is required to adopt an annual operations budget pursuant to City of Rio Dell Resolution 966-2007, and

WHEREAS, the proposed budget for the Fiscal-year beginning July 1, 2017 and ending June 30, 2018, as presented by the Finance Department has been reviewed and revised by the City Manager, and the City Council; and

NOW THEREFORE BE IT RESOLVED, that the City of Rio Dell City Council does hereby adopt the City of Rio Dell 2017-2018 Operating & Capital Budget, including revenues totaling **\$3,673,014** and expenditures in the amount of **\$4,119,688**, for a draw on reserves in the amount of **\$ -446,675** as follows:

	FUND BALANCE	REVENUES	EXPEND	RESERVES	TRANSFERS	FUND BALANCE
FUND NAME	BEGINNING	TOTAL	TOTAL	CHANGE	Projected Totals	ENDING
005 Admin Fund	8,979	3,887	2,650	1,237		10,216
008 Building Fund	19,462	35,131	63,214	(28,083)	(8,621)	(0)
037 CDBG Fund	559					559
039 CDBG RLF Fund	152,277	3,174	164,850	(161,676)		(9,399)
000 General Fund	1,129,263	923,579	1,037,336	(113,756)	8,621	1,006,886
044 Measure Z Fund		34,101	34,101	(0)		(0)
074 Recycling Fund	14,455	5,000	5,000			14,455
016 Parks Fund	13,610					13,610
046 Realignment Grant Fund	14,911	4,800		4,800		19,711
040 SLESF Fund	45,936	100,000	90,740	9,260		55,196
043 Vehicle Abatement Fund	2,605					2,605
053 Sewer Asmt District Fund	33,245	28,500	30,500	(2,000)		33,245
052 Sewer Capital Fund	62,792	71,930	164,250	(92,320)	(500,000)	470,472
054 Sewer Debt Svc Fund	553,907	303,000	303,000		500,000	53,907
054 Sewer Restricted Reserve	302,822					302,822
050 Sewer Operations Fund	304,532	811,352	803,327	8,025		312,557
027 Solid Waste Fund	39,655	9,000	3,510	5,490		45,155
003 Spay & Neuter Fund	2,868					2,868
020 Gas Tax Fund (HUTA)	151,770	100,580	229,842	(129,262)		22,508
024 TDA Fund	27,968	114,217	119,301	(5,084)		22,884
026 RTP Fund	2,018	22,000	23,671	(1,671)		347
052 Water Capital Fund	572,631	175,904	169,500	(12,596)		560,035
053 Water Metro Wells Fund	18,536	14,755	3,400	11,395		29,931
054 Water Dismore Zone	8,902	22,744	3,400	19,344		28,246
061 Water Restricted Reserve	13,600	27,500	27,200	300		13,900
061 Water Debt Svc Fund	97,971	135,700	135,000	700		98,671
060 Water Operations Fund	183,855	724,120	684,896	39,224		223,079
TOTAL FY 2018/17	3,781,138	3,673,014	4,119,688	(446,675)		3,334,463

BE IT FURTHER RESOLVED, that the staffing is adopted and funded in the 2017/18 Operations Budget as follows:

JOB TITLE	FULL-TIME EMPLOYEES (FTEs)				
	2013/14	2014/15	2015/16	2016/17	2017/18
Accountant I	1	--	1	1	1.0
Chief of Police	1	1	1	1	1.0
City Clerk	1	1	1	1	1.0
City Manager/Public Works Director	1	1	1	1	1.0
Community Development Director	1	1	1	1	0.8
Finance Director	1	1	1	1	1.0
Fiscal Assistant II	1	1	1	1	1.0
Public Works Leadman	--	--	1	--	1.0
Police Officer	3	3	3	3	3.0
Records Technician	--	--	--	--	0.7
Sergeant	1	1	1	1	1.0
Senior Fiscal Assistant	1	1	1	1	1.0
Utility Worker I	3	3	3	2	2.0
Water/Wastewater Plant Operator I	1	1	1	1	1.0
Wastewater Superintendent Trainee	--	--	--	1	1.0
Wastewater Superintendent	1	1	1	--	--
Water/Streets Superintendent	1	1	1	1	1.0
	17.75	16.80	18.80	16.80	18.5

BE IT FURTHER RESOLVED, as follows:

Section 1.

It is the intention of the City Council in approving and adopting an annual budget to provide financial guidance for routine operations of City business and for the purpose of providing information to the general public.

Section 2.

The adopted annual City budget will be implemented and maintained in accordance with City Budget Policy as outlined in Resolution 966-2007.

Section 3.

Adoption of the annual budget does not expressly approve expenditures of funds in excess of purchasing authority as outlined by City Resolution, Ordinance, State, or Federal law.

Section 4.

Adoption of the 2017/18 Budget includes the streets funds (Gas Tax, TDA, and RSTP) whose expenditures have exceeded revenues for several years. As such, these funds are not projected to have the required minimum Reserve balance as set forth in City policy. Therefore, an exception to the City's Minimum Fund Balance Policy established by Resolution No. 1154-2012 is hereby granted to Gas Tax Fund, TDA Fund, and RSTP Fund.

Section 5.

Adoption of the 2017/18 Sewer Program includes an inter-fund transfer of \$500,000 from the Sewer Debt Service Fund (054) to the Sewer Operations Fund (050).

Section 6.

Adoption of the 2017/18 Building Program includes an inter-fund transfer of \$8,621 from the General Fund Fund (000) to the Building Fund (008).

Section 7.

Adoption of the 2017/18 Budget shows deficits (expenditures exceeding revenues and transfers) in the following funds and the following amounts: CDBG (039) \$161,676, General Fund (000) \$113,756, Sewer Assessment Fund (053) \$2,000, Gas Tax Fund (020) \$129,262, TDA Fund (024) \$5,084, RSTP Fund (026) \$1,671, and Water Capital Fund (062) \$12,596.

PASSED AND ADOPTED by the City of Rio Dell on this 2nd day of May 2017, by the following roll call vote:

Ayes:

Noes:

Abstain:

Absent:

Frank Wilson, Mayor

ATTEST:

Karen Dunham, City Clerk

FY 2017/18
PROPOSED CAPITAL/SPECIAL PROJECTS

GENERAL FUND (000)	AMOUNT	DESCRIPTION
Bellevue/Ogle (carry-over 15/16)	45,000	Bellevue/Ogle street repairs
Lawn Mower	20,000	Replacement for City Lawn Mower
City Hall Repairs and Improvements		
CDBG ABR ADA Improvements	90,000	GF Subsidy for City Hall ADA improvements
Council Chambers	15,000	Acoustics, misc. improvements
Reception Area	20,000	Security, misc. improvements
Broken Windows	10,000	Repairs and maintenance
GEN FUND PROJECTS	200,000	

WATER FUND (062)	AMOUNT	DESCRIPTION
Water Plant Effluent Redirection	150,000	
"Hawk" Calibration	15,000	
Utility Truck (0.40)	14,000	
Forklift (0.15)	2,250	
WATER FUND PROJECTS	189,500	

SEWER FUND (062)	AMOUNT	DESCRIPTION
Contact Basic Covers	30,000	
Sewer Machine Replacement	35,000	
Sewer Push Camera	5,000	
Utility Truck (0.40)	14,000	
I & I Reduction	60,000	
Forklift (0.80)	12,000	
SEWER FUND PROJECTS	164,250	

STREETS FUNDS (020, 024)	AMOUNT	DESCRIPTION
Four Ft. Roller & Trailer	33,000	
Utility Truck (0.20)	7,000	
Street Striping	20,000	
Drainage replacements	30,000	
Forklift (0.05)	750	
STREETS FUNDS PROJECTS	74,250	

CDBG FUND (037)	AMOUNT	DESCRIPTION
CDBG ABR ADA Improvements	160,000	City Hall ABR ADA (plus GF \$90k Subsidy)
CDBG FUND PROJECT	160,000	

788,000

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



For Meeting of: May 16, 2017

To: City Council

From: Kevin Caldwell, Community Development Director 

Through: Kyle Knopp, City Manager

Date: May 10, 2017

Subject: Approval and Adoption of 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.

Recommendation:

That the City Council:

1. Receive staff's report regarding 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. Find that the proposed text amendment is consistent and compatible with the General Plan and any implementation programs that may be affected; and
4. Find that the proposed amendments have been processed in accordance with the California Environmental Quality Act (CEQA); and
5. Adopt 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.

6. Direct the City Clerk, within 15 days after adoption of the Ordinance, to post an adoption summary of the Ordinance with the names of those City Council members voting for or against, or otherwise voting in at least three (3) public places and to post in the office of the City Clerk a certified copy of the full text of the adopted Ordinance pursuant to Section 36933(a) of the California Government Code.

Discussion

At your meeting of April 4, 2017 the Council considered and approved the Planning Commission's recommendations regarding the use of cargo containers in certain zones throughout the City. New cargo containers in residential zones are not allowed unless an exception is approved by the Planning Commission. As was discussed at the April 4th meeting, the exception is through a Conditional Use Permit process which requires that neighbors within 300 feet of the project site be notified of the application and the date of the public hearing. This allows neighbors who may have a concern, to express their concerns to the Planning Commission.

The Council also followed the recommendation of the Planning Commission to allow existing cargo containers on lots larger than 10,000 to remain subject to certain requirements including a building permit, location standards and limiting the number of containers to no more than two.

The Council also directed staff to amend the screening provisions to require vegetation and/or fencing. See below.

(vi) Unit(s) must be placed on the rear half of the parcel and screened (i.e. vegetation, fencing) from public view.

Your Council was schedule to adopt the Ordinance at your meeting of April 18, 2017. Only Council members Johnson, Marks and Mayor Wilson were present for the meeting. Council member Johnson suggested that Building Permit Fees for existing cargo containers be waived. Council member Marks reiterated that that he is not in support of allowing them at all in residential zones. Mayor Wilson stated that once a container wears out, that they should not be allowed to be replaced. A copy of the Minutes is included as Attachment 2. There was no one from the public that attended the meeting. Subsequent discussions with two of the stakeholders indicated that they were under the impression that adoption of the Ordinance as presented and modified at the meeting of April 4th was a formality and therefore chose not to attend the meeting.

As suggested by Mayor Wilson, staff did send letters, including the Public Hearing Notice, to property owners with known cargo containers. A copy of the letter, Public Hearing Notice and mailing list is included as Attachment 3.

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 policies 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: 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.

Attachment 2: Copy of the April 18, 2017 Minutes.

Attachment 3: Copy of the letter to property owners with known cargo containers, Public Hearing Notice and mailing list.

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 and comply with the following provisions:

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

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

(iii) 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 (i.e. vegetation, fencing) 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.

(7) 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 (i.e. vegetation, fencing) 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.

(8) 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 (i.e. vegetation, fencing) 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.

(9) 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;

(i) 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) 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 18, 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 18, 2017.

Karen Dunham, City Clerk, City of Rio Dell

City Clerk Dunham explained that cargo containers used as accessory structures are considered the same as any other accessory structure and that any structure over 120 sq. ft. requires a permit.

Mayor Pro Tem Johnson said he would like to see the fees for existing containers waived.

Mayor Wilson stated that the idea was to prohibit cargo containers in residential zones so in the event a container wears out, feels they shouldn't be allowed to be replaced.

City Clerk Dunham explained that existing cargo containers are considered legal non-conforming uses and can be replaced however; if the use ceases for 12 months or more it is deemed to an abandonment of the use and it would then revert back to the current requirements of the zone.

Councilmember Marks stated that he is perfectly happy with the original ordinance to not allow them at all.

Mayor Wilson opened a public hearing to receive input on the proposed ordinance. There being no public comment, the public hearing was closed.

City Manager Knopp suggested the matter be continued to the next regular meeting on May 2, 2017.

Motion was made by Johnson/Wilson to continue the discussion, consideration and possible adoption of Ordinance No. 355-2017 to the meeting of May 2, 2017. Motion carried 3-0.

Mayor Wilson stated that he would also like staff to send out notices to all property owners with existing cargo containers and that they be identified by assessor parcel number so there is no misconception later on.

REPORTS/STAFF COMMUNICATIONS

City Manager Knopp provided a written City Manager update of recent activities and events. (attachment 1 to these minutes).

Finance Director Woodcox reported on recent activities and events in the finance department and said the auditor from the State Controller's Office was here for over a week to audit the Gas Tax Funds for 2015-2016 and said there were only a couple of small items identified. She said a report will be forthcoming.

OTHER COUNCIL REPORTS

By consensus of the Council, Councilmember Marks was appointed as Alternate to the Rio Dell Sculpture Committee.

ORDINANCES/SPECIAL RESOLUTIONS/PUBLIC HEARINGS

Resolution No. 1331-2017 Amending Project Budget for 2017 Slurry Seal Project to include an additional \$7,200 General Fund Subsidy for Sealing of Lower Monument Road

City Manager Knopp provided a staff report and said he received an email from the contractor asking if the City would like to add any extra work for slurry sealing. He said under the 2017 Asphalt Repair project included crack sealing of the lower portion of Monument Road but in light of the recent storms, staff is recommending the contractor focus on crack sealing on the upper portion of Monument Road above Pacific Ave. and add slurry sealing on the lower portion of Monument Road. He noted that the addition of this section of roadway is estimated to cost \$7,200 including a 10% contingency and the project is likely to come in lower than the estimate.

Mayor Wilson called for public comment on the proposed resolution; no public comment was received.

Motion was made by Johnson/Marks to approve Resolution No. 1331-2017 amending the project budget for the 2017 Slurry Seal Project to include an additional \$7,200 General Fund Subsidy for sealing of lower Monument Road. Motion carried 3-0.

Second reading (by title only) and adoption 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

City Manager Knopp provided a brief staff report and said at the April 4, 2017 meeting the Council considered and approved the Planning Commission's recommendations regarding the use of cargo containers in certain zones throughout the City. He explained that new cargo containers in residential zones are not allowed unless an exception is approved by the Planning Commission through the Conditional Use Permit (CUP) process. He said the Council also followed the recommendation of the Planning Commission to allow existing cargo containers on lots larger than 10,000 sq. ft. to remain subject to certain performance standards including a building permit, location standards and limiting the number of containers to no more than two (2).

The Council also directed staff to amend the screening provisions to require vegetation and/or fencing from public view which he noted was incorporated into the ordinance.

Mayor Pro Tem Johnson asked if existing cargo containers will be required to obtain a building permit.

615 Wildwood Avenue
Rio Dell, CA 95567
(707) 764-3532



May 9, 2017

Dear Property Owner:

Subject: City Council Meeting May 16, 2017 - Cargo Containers

The City Council is scheduled to reconsider their April 4th amendments regarding the use of cargo containers in certain zones throughout the City. Below is a brief summary of the changes:

- New cargo containers in residential zones are not allowed unless an exception is approved by the Planning Commission.
- The Council followed the recommendation of the Planning Commission to allow existing cargo containers on lots larger than 10,000 to remain subject to certain requirements including a building permit, location standards and limiting the number of containers to no more than two.
- The Council also directed staff to amend the screening provisions to require vegetation and/or fencing. See below.

*(vi) Unit(s) must be placed on the rear half of the parcel and screened **(i.e. vegetation, fencing)** from public view.*

If you have any questions, please feel free to contact me at 764-3532.

Respectfully,

Kevin Caldwell
Community Development Director and
Building Inspector

Enclosures

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



Public Notice
City of Rio Dell City Council Meeting
Notice of Public Hearing

On Tuesday, May 16, 2017 at 6:30 p.m. or as soon thereafter as the matters can be heard, the Rio Dell City Council will hold a public hearing in the City Council Chamber at City Hall to consider the project listed below. If you have any questions regarding the proposed project, contact Kevin Caldwell, Community Development Director at (707) 764-3532.

1. Accessory Structures – Cargo/Shipping Containers: Continued discussion regarding establishing regulations regarding cargo/shipping containers as accessory uses, including their size, number and location.

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. Based on the nature of the proposed amendments, staff believes there is no evidence to suggest that the amendments will have a *significant* effect on the environment.

Any person may appear and present testimony in regard to the project at the hearing. If you challenge the nature of the proposed action in court, you may be limited to raising only those issues that you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City Council, at, or prior to, the public hearing. The City Council needs **10 copies** of any materials submitted either prior to, or at the meeting.

General questions regarding the project, the planning process, submission of materials and information not specific to this project may be obtained from the City, 675 Wildwood Avenue, Rio Dell, CA. 95562; telephone (707) 764-3532.



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.

Cargo Containers
Mailing List

Pamela Cassady
975 Webb Lane
Rio Dell, CA. 95562

Neil & Kathy Wildgrube
6 Painter Street
Rio Dell, CA. 95562

Bounthouy & Heather Vonglakhone
220 Willow Lane
Rio Dell, CA. 95562

Kaleb & Cassandra Perry
229 Ogle Avenue
Rio Dell, CA. 95562

Timothy Roscoe
P.O. Box 593
Fortuna, CA. 95540

Ray Ayers
655 Rigby Avenue
Rio Dell, CA. 95562

Peter & Sarah Chapman
543 Rigby Avenue
Rio Dell, CA. 95562

Michael Ward
730 Ireland Avenue
Rio Dell, CA. 95562

Travis Wildgrube
6 Painter Street
Rio Dell, CA. 95562

Myrna Moore
P.O. Box 135
Rio Dell, CA. 95562

Kevin Bradley
1838 Thelma Street
Fortuna, CA. 95540

Michael Ward
730 Ireland Avenue
Rio Dell, CA. 95562

James Cortazar
625 Monument Road
Rio Dell, CA. 95562

Sean Studebaker
4439 Briceland-Thorn Road
Redway, CA. 95562

Shane Wilson
Rio Dell Fire Department
50 W. Center Street
Rio Dell, Ca. 95562

Randy Whitlow
P.O. Box 767
Miranda, CA. 95553

Dennis Wendt
1660 Newburg Road
Fortuna, CA. 95540


101 Auto Supply
Kenneth Ransbottom
33 Center Street
Rio Dell, CA. 95562

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



For Meeting of: May 16, 2017

To: City Council

From: Kevin Caldwell, Community Development Director 

Through: Kyle Knopp, City Manager

Date: May 9, 2017

Subject: Approval and Adoption of Ordinance No. 356-2017 amending Chapter 13.05 Water Rates and Regulations to require that all new 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. Receive staff's report regarding amending Chapter 13.05 Water Rates and Regulations to require that all new 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; and
2. Open the public hearing, receive public input and deliberate; and
3. Find that the proposed text amendment is consistent and compatible with the General Plan and any implementation programs that may be affected; and
4. Find that the proposed amendments have been processed in accordance with the California Environmental Quality Act (CEQA); and
5. Adopt Ordinance No. 356-2017 amending Chapter 13.05 Water Rates and Regulations to require that all new 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.
6. Direct the City Clerk, within 15 days after adoption of the Ordinance, to post an adoption summary of the Ordinance with the names of those City Council members voting for or

against, or otherwise voting in at least three (3) public places and to post in the office of the City Clerk a certified copy of the full text of the adopted Ordinance pursuant to Section 36933(a) of the California Government Code.

Discussion

As reported at your meeting of April 4, 2017, staff recently discovered that there is no language in Chapter 13.05 Water Rates and Regulations that requires that all **new** 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. The recommended fees and Resolution are a separate Agenda Item for this meeting. Again, 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.

Only two penalty fee/charges provisions are recommended to be codified, Section 13.05.470 and Section 13.05.500. Staff is recommending that the Criminal fines and penalties be raised from \$500.00 to \$1,000.00. This would be consistent with the fines and penalties in the Nuisance Regulations, and Land Use Regulations. 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.]

Attachments

Attachment 1: 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 new 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 new 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 new residential dwellings, commercial and industrial buildings within the City shall be required to connect to the City's water system.

~~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 and a copy of the lease/rental agreement shall be provided. [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 types, sizes, locations and connections methods shall be at the sole discretion of the ~~City Manager~~ Public Works Director. [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~~ three (3) 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~~ 26th 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 ~~26th~~ 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~~ person or persons who reside in or otherwise occupy the premises 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.~~

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

~~(5) (4)~~ 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) (5)~~ 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)~~ (6) 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 delinquency 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 in 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 May 2, 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. 356-2017 which was passed, approved and adopted at a regular meeting of the City Council of the City of Rio Dell, held on the May 2, 2017.

Karen Dunham, City Clerk, City of Rio Dell