

**RIO DELL CITY COUNCIL  
REGULAR MEETING MINUTES  
FEBRUARY 20, 2024**

The regular meeting of the Rio Dell City Council was called to order at 6:03 p.m. by Mayor Garnes.

**ROLL CALL:** Present: Mayor Garnes, Mayor Pro Tem Carter, Councilmembers Orr, Wilson, and Woodall

Others Present: Chief of Police Allen, Finance Director Sanborn, Wastewater Superintendent Kelly, Community Development Director Caldwell (Attended Remotely), Water Roadways Superintendent Jensen, Community Service Officer Clark, Senior Fiscal Assistant Maciel, and City Clerk Dunham

**ANNOUNCEMENT OF ITEMS TO BE DISCUSSED IN CLOSED SESSION**

Conference with Labor Negotiator – Kyle Knopp, City Manager – Rio Dell Employees Association, Rio Dell Peace Officers Association and all Contract Employees Pursuant to Gov't Code §54957

**PUBLIC COMMENT REGARDING CLOSED SESSION**

No public comment was received.

**RECESS INTO CLOSED SESSION**

The Council recessed into closed session with City Manager Knopp and Finance Director Sanborn at 4:00 p.m.

**RECONVENE INTO OPEN SESSION**

The Council reconvened into open session at 6:00 p.m. Mayor Garnes announced that there was nothing to report out of closed session.

**PUBLIC PRESENTATIONS**

Mayor Garnes invited public comment on non-agenda matters. No public comment was received.

**CONSENT CALENDAR**

Mayor Garnes asked if any councilmember, staff or member of the public would like to remove any item from the consent calendar for a separate discussion.

Councilmember Wilson asked that Consent Calendar Item #5 be removed for separate discussion.

A motion was made by Carter/Woodall to approve the consent calendar including the following items:

- 1) Minutes of the February 6, 2024 regular meeting;
- 2) Approving the distribution of the City's Request for Proposal (RFP) for Auditing Services for FY 2023-24;
- 3) Approving the appointment of Reshell Gurney to the Rio Dell Planning Commission for the remainder of the 3-year term ending December 31, 2025;
- 4) To receive and file the Check Register for January 2024.

Motion carried 5-0.

#### **ITEMS REMOVED FROM THE CONSENT CALENDAR**

##### Approve Letter of Opposition to AT&T "Land Line" Service Disconnection Application with the California Public Utilities Commission (PUC)

Councilmember Wilson commented that AT&T is trying to eliminate landline services and urged the community to oppose the AT&T's application to the Public Utilities Commission if they get the opportunity. He stressed the importance of maintaining reliable landline services in rural areas.

Mayor Garnes announced that public participation hearings were scheduled to provide an opportunity for the public to communicate directly with the CPUC regarding AT&T applications to remove services. She noted that the removal of landline services would be hugely impactful to Rio Dell and other rural communities as many residents don't have mobile services in those areas.

Motion was made by Wilson/Orr to approve the letter of opposition to AT&T "Land Line" Service Discontinuation Application with the California Public Utilities Commission (CPUC). Motion carried 5-0.

#### **REPORTS/STAFF COMMUNICATIONS**

City Manager Knopp provided a staff update and reported that over the past weekend, the City received 4.44 inches of rain in 72 hours which led to sanitary sewer overflow (SSO) events at the weakest section of the collection system. He reminded everyone that the SSO's did not contain raw sewage but highly diluted wastewater into the river. He said that staff is working with the state on a Sanitary Sewer Evaluation Study and upsizing of the Painter Street line to avoid future SSO events.

He also announced that there would be a Virtual Town Hall on February 22nd from 5:30 p.m. to 6:30 p.m. to hear from experts about emergency preparedness and about how California is addressing the homeowner's insurance crisis. He said that this issue is impacting local residents and will continue to be an evolving situation that people will need to pay attention to. Special guests will include California Department of Insurance, United Policyholders, Cal Fire, and UC Cooperative Extension. He said that anyone interested in attending can sign up on the County of Humboldt website or can contact the City for information on how to sign up. He noted that residents who lose their homeowners insurance would not be eligible for grants or loans related to earthquake related repairs.

City Manager Knopp said that on the next agenda, there would be an important opposition letter to the "Taxpayer Protection Act & Government Accountability Act" a ballot measure that will appear on the November ballot which will have a significant impact on local governments.

### **SPECIAL PRESENTATIONS**

#### Fiscal Year 2023-24 Mid-Year Financial Report

Finance Director Sanborn provided a presentation on the Mid-Year Financial Report for FY 2023-24 summarizing budgeted versus actual amounts as of December 31, 2023, and describing any significant variances.

He explained that the report describes the revenues received and expenditures incurred during the first half of the fiscal year and explains any material differences between the values and adjusted budget.

He provided a budget outlook reviewing several factors that may impact the City over the next few years. He noted that the report was created using unaudited financials as of December 31, 2023.

He explained that the City has three main fund types in which the finances are consolidated; the General Fund, the Enterprise Funds (Water and Sewer), and Special Revenue Funds.

At mid-year, City expenses exceeded revenues by \$724,000 principally due to the timing of the City receiving its revenues from the County of Humboldt and other government agencies in addition to grant funded projects completed and not yet reimbursed.

He then compared City expenditures by department to actuals with most departments operating at or below 50% of budgeted expenditures at mid-year. Streets, Water and Sewer departments showed elevated levels due to ongoing earthquake repairs or grant funded work such as the Sanitary Sewer Evaluation Study and the Drinking Water Improvement Project.

The City received 29% of General Fund revenues at mid-year compared to 21% the previous year. He noted that property tax and vehicle in-lieu license fees are typically received from the County during the second half of the fiscal year which is the primary reason revenues are below the estimate at mid-year.

40% of budgeted cannabis revenues were received at mid-year compared to 55% last year as a result of the local ordinance that allowed cultivators on the Dinsmore Plateau to make a one-time tax payment by March 15<sup>th</sup> as an alternative to paying quarterly taxes.

He noted that the Street Funds received 59% of budgeted revenue at mid-year with actual streets expenditures 67% of adopted appropriations compared to 50% the previous year. This increase was primarily due to ongoing emergency earthquake expenditures allocated to various streets funds in addition to pass-through income the City allocated to the Humboldt Senior Resources and Humboldt Transit Authority.

Finance Director Sanborn said that actual revenues for the Sewer Enterprise Funds were at 51% at mid-year with 49% allocations expended. Actual Water Enterprise Funds were 49% at mid-year with 52% of budgeted expenditures recorded. Expenditures in the Water Capital Fund were at 145% with the increase resulting from emergency earthquake repairs at \$107,000 and the CalOES grant-funded Eel River Pipeline Seismic Retrofit project with \$68,000 in costs incurred at mid-year.

He said that the water plant has a loan of \$2.7 million with the State of California which will be paid off in 2029.

He further explained that the mid-year review shows revenues and expenditures remain largely within budgeted levels however, several factors are anticipated to impact the budget outlook. This includes the list of earthquake related projects with a cost estimate of nearly \$36 million. If no additional reimbursements are granted, the City's 25% cost share would be just under \$9 million.

Finance Director Sanborn noted that the cannabis market continues to be challenging for local governments and producers alike but the City remains confident in the long-term viability of the market and impact in the community. He said that the Taxpayer Protection and Government Accountability Act, an initiative proposed for the November ballot, has potential to impact Rio Dell's Measure O Sales Tax. This is a substantial revenue source to the City which will have a profound impact to the budget if altered or removed. The current year budgeted revenue in local sales tax is estimated at \$368,000.

Related the Streets Funds, he said that although electric car owners do pay a fee meant to offset the loss in gas taxes, the Legislative Analyst's office predicts a \$6 billion decline in gas tax revenue over the next decade. The result in less gas tax to the City means significant General Fund investments to help offset the revenue shortfall.

He concluded the presentation and called for questions from the Council.

Mayor Pro Tem Carter said that regarding electric vehicles, there was talk about a road use tax to try and offset the decline in gas taxes and asked for an update on that.

Finance Director Sanborn said that, among a few other options are being explored because the \$6 billion figure is a real number that will have to be looked at over the next few years.

### **SPECIAL CALL ITEMS/COMMUNITY AFFAIRS/PUBLIC HEARINGS**

#### Temporary Waiver of Sewer Fees for Customers Whose Residences have been “Red-Tagged” by a Declared Natural Disaster

Finance Director Sanborn provided a staff report and said that following the December 20, 2022 earthquake and subsequent tremors, the City Council recognized the significant hardship faced by residents whose homes sustained damage and were deemed uninhabitable and red-tagged. As a result, Resolution 1478-2023 was passed, waiving sewer fees for those residences for a period of 6 months, ending on June 30, 2023.

At the February 6, 2024 regular meeting, concerns were raised regarding sewer bill charges for unoccupied red-tagged residences. To address these concerns staff was directed to revisit the resolution. Staff presented a revised Sewer Bill Adjustment Claim form allowing those residents to apply for a sewer fee waiver from the date of the declared disaster until the residences red-tagged designation is removed.

He reviewed the criteria for eligibility and offered to answer any questions the council may have.

Mayor Pro Tem Carter asked for clarification that the waiver would apply to sewer charges from this point forward and not retro-actively waiving sewer fees for people who are red-tagged.

Finance Director Sanborn explained that this resolution would retro-actively waive sewer fees for those who are red-tagged and are not currently living in their residence. He said the resolution was written in a way to capture those impacted by the December 20, 2022 earthquakes and fit under the qualifications as outlined. He said that the fee waiver would be applied as a credit on the account(s).

Councilmember Woodall asked how many houses were currently red-tagged. Staff confirmed that there were still 8 residences red-tagged.

Councilmember Orr asked how many red-tagged residences have been removed from the list and paid sewer fees for the time they were red-tagged.

Finance Director Sanborn said that he was not sure of the number but would look into it and report back.

Mayor Pro Tem Carter asked if any other residents besides Steve Saunders requested a waiver of sewer fees. She said that she spoke with him as well as the disaster case manager who indicated that they may be able to pay for the past due sewer bill through the Unmet Needs Committee.

Mayor Garnes called for public comment on the proposed resolution. No public comment was received.

Motion was made by Orr/Carter to approve Resolution No. 1598-2024 *Temporarily Waiving Sewer Fees for Customers Whose Residences Have Been "Red-Tagged" by a Declared Natural Disaster*. Motion carried 5-0.

Public Hearing – Cost Recovery for the Abatement of 289 Berkeley St.

Community Service Officer Clark provided a staff report and recommended the City Council open the public hearing for the cost abatement of 289 Berkeley St.

Mayor Garnes opened the public hearing to receive public comment. No public comment was received and the public hearing closed.

Motion was made by Carter/Woodall to approve the finding and order confirming accounts and assessments for the abatement of 289 Berkeley St. Motion carried 5-0.

Public Hearing – Cost Recovery for the Abatement of 601 Gunnerson Lane

Community Service Officer Clark provided a staff report and recommended the City Council open the public hearing for the cost abatement of 601 Gunnerson Lane.

Mayor Garnes opened the public hearing to receive public comment. No public comment was received and the public hearing closed.

Motion was made by Orr/Carter to approve the finding and order confirming accounts and assessments for the abatement of 601 Gunnerson Lane. Motion carried 5-0.

Public Hearing – Cost Recovery for the Abatement of 483 Fourth Ave.

Community Service Officer Clark provided a staff report and recommended the City council open the public hearing for the cost recovery abatement of 483 Fourth Ave.

Mayor Garnes opened the public hearing to receive public comment. No public comment was received and the public hearing closed.

Motion was made by Woodall/Carter to approve the finding and order confirming accounts and assessments for the abatement of 483 Fourth Ave. Motion carried 5-0.

Award of Bid – Clean California Gateway Landscape Improvement Project to Jagimo Corporation, Inc. DBA: J & G Lawn and Garden in the Amount of \$148,984 and authorize the City Manager to execute an Agreement

City Manager Knopp provided a staff report and said that several years ago the City was awarded a grant for the original Gateway Project including the wavy sidewalks and landscaping of the center median. He said that the original design did not include trees and subsequently the City decided to add the trees. These trees were planted into the old road base which is mostly gravel and resulted in trees that were mostly unsuccessful. Over the years, this has been a reoccurring topic of conversation as to how to make the gateway better. Fundamentally in talking to an arborist in order for the trees to be successful, the root ball of the trees would have to be excavated and the gravel removed and new soil deposited in order for the trees to grow into healthy trees.

He said that during the pandemic when the State was flush with cash, a grant became available through the Clean California Program. Over \$300 million was made available statewide so the City submitted two applications which were both approved. As such, the Eel River Trail will be moving forward as well as the Gateway Design.

The original fundamental application that was submitted to Caltrans under the grant, called for removal of the existing trees with replacement of uniform trees in appropriate soil.

He commented that staff spent a lot of time with the Adhoc committee going over different ideas for the gateway improvements, including additional items not included in the grant application. He explained that when the application was submitted there were specific deliverables in the grant and when the project went out to bid, it came in way over budget. In conversing with the Clean California Grant representatives, they recommended scaling the project down to the bare basics.

After scaling down the project and putting it back out to bid, J & G Lawn & Garden submitted a bid close to the budgeted amount for the project at \$148,984.

City Manager Knopp said that there have been discussions about possibly preserving some of the trees, particularly the Cherry Trees however, there was no specific action taken by the Council to save the trees. In discussions with the State in attempting to submit a change order and preserving some of the trees, they denied the request as it would fundamentally change the intent of the grant for uniform trees up and down the gateway with removal of all existing plantings.

He explained that in the bid, was removal and destruction of the existing trees however, the Adhoc suggested the contractor provide a cost estimate to remove the trees and their

root balls to give away to the public, instead of destroying the trees at the expense of the City.

He noted that the discussion regarding the disposition of the trees could be a discussion for the next meeting and what is before the Council now is a recommendation to award the Gateway Landscape Improvement Project to J & G Lawn and Garden.

He commented that the other option if the project is not acceptable to the Council, is to return the grant. He said that the City's time invested in the grant project is somewhat substantial but actual hard costs in development of the project are about \$3,500.

Mayor Garnes strongly opposed returning the grant.

Motion was made by Carter/Orr to award the Gateway Landscape Improvement Project to Jagimo Inc., DBA J & G Lawn and Garden in the amount of \$148,984 and further authorizing the City Manager to execute an agreement in coordination with the City Attorney. Motion carried 4-0 with 1 abstention (Woodall).

Authorize the City Manager to approve Change Orders up to \$31,941 for the Clean California Gateway Project including up to \$10,941 for Cherry Tree Removal

City Manager Knopp provided a staff report and said that the City received a \$197,870 grant from the Clean California Grant Program. Additionally, staff reached out to PG&E and was successful in securing a \$5,000 donation to augment the grant. The City Council also allocated \$38,000 in the current budget for beautification, making the total available balance for this project \$240,870.

He noted that this agenda item includes authorization for construction contingencies and change orders up to \$31,941 for the project and includes a 10% contingency (\$21,000) on each component of the project. The authorization also includes funding for the excavation and removal of approximately 13 Cherry Trees at an estimated cost of \$546 per tree or approximately \$7,100. He pointed out that there will be 114 new trees planted, leaving limited space for replanting existing trees on City property.

Councilmember Wilson said that he had no problem with approving the 10% contingency however, was conflicted with removal of the 13 Cherry Trees and making them available to the public with no guarantee they would even survive. He said with limited funding, he had a problem with approving the additional funding in hopes of saving the existing trees. He said that he would like to hear from the Adhoc and the justification for saving the trees.

Mayor Garnes explained that the original idea was to have uniformity with the trees throughout the gateway. She said that she did not realize that the City would be required to dig up and destroy the living viable trees. She said that the Clean California Grant representatives came back and said the only choice would be to destroy all of the existing



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trees and replant new trees. She said that she is hard pressed to agree to kill trees but that being said, she really wants Rio Dell to have a statement of beauty coming into town. She said that part of her wants to return the grant but also recognizes that the City doesn't have money to throw around.

Mayor Pro Tem Carter commented that the Adhoc chose a matching species of trees with the understanding that the healthy Cherry Trees would be preserved.

Councilmember Woodall asked how many trees were included in the grant application.

City Manager Knopp said that the original grant application identified 121 trees however, it also included one additional median that has since been removed. As such, the number of trees was reduced to 114.

Councilmember Woodall expressed concern regarding having adequate space for 114 trees and the time it would take for the trees to mature.

Councilmember Orr asked if the contractor could give his best guess on how many of the 13 Cherry Trees he thought would survive and said that it would be hard to believe that anyone accepting the trees would be able to successfully replant them this time of year. He also expressed concern regarding the cost of trying to save the trees.

City Manager Knopp explained that of the 13 trees, there are approximately 5 of them where they would need to be removed with the use of equipment.

Mayor Pro Tem Carter said that sometimes perfect is the enemy of the good and doesn't like the idea of killing trees however, she feels protective of the City budget, especially with a lot of things in the budget influx. She said that there are probably other ways to use the money that would serve the community as well as City staff. She said that the best option for the whole community and everybody concerned would probably be to nix the trees and plant the new trees as allowed under the terms of the grant.

Councilmember Woodall said that it would be nice if they could save the Cherry trees but acknowledged that they are hard to transplant. She posed the idea of perhaps replanting a couple of the trees at the City Hall and a couple at Triangle Park if possible.

Mayor Garnes noted that some of the 114 new trees will be planted at City Hall.

Councilmember Orr commented said that he would rather see the \$7,000 go toward beautifying some of the buildings along the gateway.

Mayor Garnes called for public comment. No public comment was received.

Motion was made by Carter/Orr to approve the contingency without Cherry Tree removal for a total of \$21,000. Motion carried 4-0 with one abstention (Woodall).

## ORDINANCES/SPECIAL RESOLUTIONS/PUBLIC HEARINGS

Second reading (by title only) and adoption of Ordinance No. 403-2024 Amending the City's Zoning Regulations to 1) define and allow for residential care homes with six or fewer persons by right in all residential zones; 2) update the definition of family to mean one or more persons living together in a dwelling unit, and 3) provide for farm employee housing consistent with state law in zones that allow agriculture as a permitted use pursuant to the State Employee Housing Act (Health and Safety Code of Regulations), Section 5061(b)(3)

Community Development Director Caldwell provided a staff report and said that as discussed at the City Council meeting of February 6, 2024, State law and the City's approved Housing Element require that the City identify the City's housing goals, policies, and implementation programs for the planning period 2019 through 2027. He said that the proposed text amendments fulfill some minor implementation measures and bring the City in compliance with State housing laws. He said that the City has the option to not implement these changes however; would not be eligible for future grant funding.

He reviewed the three proposed zoning text amendments and said that they are all minor in nature. He called for questions from the Council and recommended approval of Ordinance No. 403-2024.

Mayor Garnes 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 Woodall/Carter to adopt Ordinance No. 403-2024 *Amending the City's Zoning Regulations to 1) define and allow for residential care homes with six or fewer persons by right in all residential zones; 2) update the definition of family to mean one or more persons living together in a dwelling unit, and 3) provide for farm employee housing consistent with state law in zones that allow agriculture as a permitted use pursuant to the State Employee Housing Act (Health and Safety Code of Regulations), Section 5061(b)(3)*. Motion carried 5-0.

Introduction and first reading (by title only) of Ordinance No. 404-2024 amending the Rio Dell Municipal Code (RDMC) Establishing a Cannabis Cultivation Tax Guarantee

Community Development Director Caldwell provided a staff report recommending the introduction of Ordinance No. 404-2024 amending the Rio Dell Municipal Code to establish a Cannabis Cultivation Tax Guarantee. He said that this is an amendment to the current cannabis tax regulations and brought about due to two incidents regarding cultivation on the Dinsmore Plateau. He explained that in 2022 Dinsmore Plateau Farms was not able to

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pay their cultivation taxes for that year which resulted in a significant loss of taxes to the City. He said that one of the reasons the City established commercial cannabis cultivation regulations was based on Measure X which was approved by approximately 81% of the voters.

He said that as the Council is aware, the City currently charges cultivators \$2.00 per square foot. Most cultivators paid their taxes with the exception of Dinsmore Plateau Farms for the 2022 growing season. The city worked with the owners to reduce the tax amount by 50% to \$71,600 and waived the late fees resulting in a total reduction of \$89,500.

Dinsmore Plateau Farms leased the operations to a new operator, New Earth Farms for the 2023 growing season and before the City would allow cultivation on the site, required that the outstanding tax amount of \$71,600 be paid in full and it was.

He said that the current operator informed the City that the 2023 crop had mold and fungus issues that impacted the overall production and that he would not be farming in the 2024 season. He said that he currently owes the City approximately \$42,000 in cannabis taxes. He noted that many jurisdictions require some sort of surety bond to ensure that taxes are paid. What this ordinance does is allows the City to either require a surety bond, a deposit in escrow, or a letter of credit issued by a bank or other responsible financial institution guaranteeing the cannabis taxes.

He said that staff is concerned with the term "grow and go" much like "dine and dash" and wants to make sure that the farms that come to Rio Dell actually pay their taxes.

He recommended the Council introduce the ordinance and approve the first reading (by title only) and direct staff to return at the next regular meeting for its approval and adoption.

Mayor Pro Tem Carter understood that the farmers on the Dinsmore Plateau advocated for the \$2.00 per square foot tax and there also is a provision in the cannabis regulations where farmers can notify the City if they experience a mold or other problem with their crop and asked if the new owner notified the City that he was having a problem.

Community Development Director Caldwell said that the City did not get any indication at all that he had experienced crop loss until staff reminded him that the taxes were due. He said that one of the things the City made clear was that if they do have an issue, they need to notify the City immediately and document the issue to seek tax relief.

Councilmember Wilson commented that the new owner took over the farm with the assumption on the side of the City that they knew what they were doing and was confident that staff made them clearly understand that they needed to immediately report any crop loss. He agreed that there should be some sort of tax guarantee to protect the City.

Community Development Director Caldwell said that he wanted to make sure the Council was aware that New Earth Farms, before they were allowed to cultivate, were required to pay the outstanding tax amount owed by Dinsmore Plateau Farms of almost \$72,000 and they did pay that prior to the 2023 growing season. He noted that it will also be the case in 2024 should someone want to grow on that same site and they would be responsible for the \$42,000 unless there is some sort of agreement to reduce that tax liability.

Mayor Garnes 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 Carter/Wilson to approve introduction and first reading (by title only) of Ordinance No 404-2024 amending the Rio Dell Municipal Code (RDMC) establishing a Cannabis Cultivation Tax Guarantee and to continue the public hearing to the March 5, 2024 regular meeting for approval and adoption of the Ordinance. Motion carried 5-0.

#### **COUNCIL REPORTS/COMMUNICATIONS**

Mayor Pro Tem Carter reported that she would be attending a RREDC meeting on February 26, 2024, Disaster Preparedness Academy on March 2, 2024, and announced there would be a meeting of the Nuisance Advisory Committee meeting tomorrow at 3:00 p.m. at City hall for anyone interested in attending.

She also announced that the Humboldt Spay & Neuter Clinic is open again in Fernbridge offering low-cost spay and neuter services for dogs and cats.

Councilmember Orr said that he attended an HCAOG meeting on Thursday and they approved the hard closure of Fernbridge from February 23-25 for repairs.

Councilmember Wilson announced that he would be attending a RCEA meeting on Thursday so would not be able to attend the Virtual Town Hall related to the homeowner insurance crisis.

Mayor Garnes reported on her attendance at the HTA meeting on Friday where they provided a tour of the entire facility and explained how the transit system is connected. She noted that there is no bus route that can get you from here to Sacramento. The one thing that everyone in Rio Dell needs to know, is that starting on February 19, 2024, the transit buses will start at 7:00 a.m. with the last bus going north leaving at 8:00 p.m. which is two hours later than the previous schedule.

Councilmember Woodall thanked Community Service Officer Clark for the updates on the nuisance abatements.

#### **ADJOURNMENT**

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A motion was made by Carter/Orr to adjourn the meeting at 7:20 p.m. to the March 5, 2024 regular meeting. The motion carried 5-0.

Attest:

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Debra Garnes, Mayor

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Karen Dunham, City Clerk