



CITY OF DEL REY OAKS

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AGENDA REGULAR MEETING OF THE CITY OF DEL REY OAKS CITY COUNCIL TUESDAY, NOVEMBER 18, 2014 AT 6:00 P.M. CHARLIE BENSON MEMORIAL HALL, CITY HALL

1. 6:00 P.M. - ROLL CALL – *Council*

2. PLEDGE OF ALLEGIANCE

3. PUBLIC COMMENTS:

Anyone wishing to address the City Council on matters not appearing on the Agenda may do so now. The public may comment on any other matter listed on the Agenda at the time the matter is being considered. *There will be a time limit of not more than three minutes for each speaker. No action will be taken on matters brought up under this item and all comments will be referred to staff.*

4. CONSENT AGENDA:

Action Items

A. MINUTES:

1. October 28, 2014 City Council Meeting
2. October 8, 2014 Planning Commission Meeting

B. MONTHLY REPORTS:

1. Claims, October 2014
2. Unpaid Bills Detail, All
3. Financials, October 2014 vs. October 2013
4. Fire Department Response Report, October 2014
5. Police Activity Report, October 2014

5. OLD BUSINESS:

OPEN PUBLIC HEARING

- A. Consider Ordinance No. 279, An Ordinance of the Council of the City of Del Rey Oaks Adding Chapter 4.00, Titled Medical Cannabis Dispensaries, to the Del Rey Oaks City Municipal Code. (*Second Reading*)

6. NEW BUSINESS

- A. Consider Resolution 2014-13, A Resolution approving Amendment to Joint Exercise of Powers Agreement for Monterey Regional Waste Management Authority
Presentation by: William Merry, General Manager MRWMD
- B. Consider Employee Recognition : A One-Time Award to Non-Exempt Employees' Compensation Time Benefit

7. STAFF REPORTS:

- A. City Manager Report

8. MAYOR AND COUNCIL REPORTS

9. CORRESPONDENCE: None

10. CLOSED SESSION: As permitted by Government Code Section 54956 et. seq. the Council may adjourn to a Closed Session to consider specific matters dealing with certain litigation, personnel, or labor/real property negotiations.

- A. Performance Evaluation and Labor Relations – Government Code Section 54957 and 54957.6, public employee performance evaluation and labor relations with unrepresented employee (City Manager).

Del Rey Oaks Council Meeting Agenda – November 18, 2014

11. **SET NEXT MEETING DATE:** Establish Tuesday, **December 16, 2014**, at 6:00 P.M. as the date and time of the Council's next regular meeting.

Note: The meeting date is one week earlier than the regular meeting date because of the holiday.

12. **ADJOURNMENT**

Information distributed to the Council at the meeting becomes part of the public record. A copy of written material, pictures, etc. must be provided to the secretary for this purpose.

All enclosures and materials regarding these agenda items are available for public review at the Del Rey Oaks City Hall, 650 Canyon Del Rey Road, Del Rey Oaks.

**REGULAR MEETING OF THE CITY OF DEL REY OAKS CITY COUNCIL
CONVENED AT 6:00 P.M. ON TUESDAY, OCTOBER 28, 2014 IN THE
CHARLES BENSON MEMORIAL HALL, CITY HALL**

Present: Council Member Ventimiglia, Clark, Cecilio, Allion, Mayor Edelen

Absent: None

Also present: City Attorney Trujillo, City Manager Dawson and Deputy City Clerk Carvalho

Meeting came to order at 6:00 p.m. and roll call was taken.

PLEDGE OF ALLEGIANCE: Led by Council Member Cecilio

PUBLIC COMMENT:

Bob Reikes, Los Encinos: Came here previously complaining about parking issues. People are parking on both sides of Los Encinos and you can't get through. It's dangerous!

Mayor Edelen: Asked that everyone who agrees raise their hands.

Dan Presser, Monterey: November 8th, 2014 Veterans Open Golf Tournament at Blackhorse and Bayonet to benefit the Veterans Cemetery.

CONSENT AGENDA:

A. Minutes

1. September 23, 2014, City Council Meeting
2. September 10, 2014, Planning Commission Meeting
3. October 8, 2104, DRAFT Planning Commission Meeting

B. Monthly Reports:

1. Claims, September 2014
2. Unpaid Bills Detail All
3. Financial reports September 2014/Comparison to September 2013
4. Fire Department Response Report, September 2014
5. Police Activity Report, September 2014

Mayor Edelen: Moved this item to New Business after the finance presentation item.

Motion to approve: Council Member Ventimiglia

Second: Council Member Clark

Public Comment: None

Motion passed: 5-0

OLD BUSINESS:

The Council considered **ITEM 5.A.**, Dog Park Committee

Council Member Ventimiglia: The council formed a dog park committee, they met and came up with some suggestions and needs. They are summarized as follows: All revenue to go to dog park, dog park fee of \$30 with a discount for previously licensed dogs, vet hospital to donate dog bags, applied for a grant, buy a chip scanner to help find lost dogs paid with the grant, volunteer waivers and renovation of the dog park. Dog park meetings went smoothly.

Council Member Allion: Did a good job addressing the concerns dog owners have. Went down through dog park and was confronted by a loose dog so hopefully these changes will help.

Council Member Ventimiglia: Feels a higher fence will help that. It's a society down there. There are 3 different societies that meet different times of the day.

Mayor Edelen: Work and information is excellent. Still wouldn't approve a fee for dogs.

Council Member Ventimiglia: Clarified that the license would be to assure proper vaccinations.

Council Member Allion: What if I'm a dog owner in Carmel?

Council Member Ventimiglia: If you have a dog license in Carmel you would bring in proof and get a discount on your Del Rey Oaks fee to use the park.

PUBLIC COMMENT:

Monterey Resident: You have to license your dog in the city you live in.

Wendy Cunningham, Monterey: Asked what if Monterey required a license for kids to go to Dennis the Menace park? To most people dogs are like their kids. If the grant is to pay for a card reader that's offensive. Picnic area will generate revenue only if you reserve it. Need a tall fence yes.

City Manager Dawson: Thanked Ventimiglia for taking on this issue. Seems that all the items with the exception of 2 times are contingent on the grant.

Council Member Ventimiglia: Yes most is part of the grant. The only thing that is not part of the grant is licensing your animal.

City Manager Dawson: The scanner could save us money and housing with the SPCA also and that would ultimately pay for the dog park renovations.

Council Member Ventimiglia: Stated this was for information only.

Council Member Allion: Asked about the original grant

Council Member Ventimiglia: Yes we applied and missed the first deadline so he is reapplying.

Council Member Allion: Recommendation to go ahead and buy the scanner for the PD.

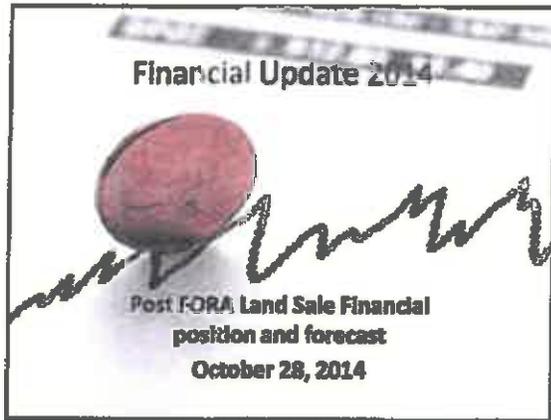
The Council agreed.

No motion was necessary as this was an information item only.

NEW BUSINESS:

The Council considered ITEM 6.A., Update on the Financial Status of the City

10/21/2014



"Del Rey Oaks will get \$3 Million for Land" Monday Herald 7/22/14

- Gives the Public a false perception that the City is able to "Pave the Streets with Gold".
- **Reality:** All Land Sales Proceeds are split with FORA 50/50.
- Del Rey Oaks actual NET PROCEEDS: **\$1,350,971**

Del Rey Oaks actual Net Proceeds: \$1,350,971

Outstanding Accounts Payable: \$977,000

PLL Insurance arrears due to FORA: \$736,000

\$162,000

Balance of "\$3 Million Windfall":

Worst case scenario pending FORA Board decision: -\$382,029

Best case scenario pending FORA Board decision: \$211,971

Revenue vs Expenses (Audited)

FY	Revenue	Expenses	Difference
2010-11	Act. \$1,891,460	\$9,142,097	
	Bud. \$1,919,230	\$1,897,900	-\$284,797
2011-12	Act. \$1,916,532	\$2,008,081	
	Bud. \$1,899,739	\$1,901,349	-\$167,989
2012-13	\$1,849,606	\$9,214,636	
	\$1,853,079	\$1,991,415	-\$138,336
	-\$109,199	(\$389,411)	

Major Expense Drivers(Past 4 FYs)

Seattle Fire Contract – Per Call basis prior to negotiating a flat rate contract for FY 2014 (120 calls x \$2,250 = \$270k cost versus Budget of \$159K)

Workers Compensation Franchise Costs Negotiated a \$215K Loan to avoid loss of coverage

Emergency Communications Digital Radio and System Costs: \$120K

Legal Costs for Federal LLC Litigation: \$80K

FORA Interest and Principle on PLL Insurance: \$50K





The Good News!

- Federal LLC Case finally settled!
- All of our future gains (except FORA)
- There are potential revenue generating projects (shops and Medical Dispensary)
- 2-3 years for option on remainder of land and potential income stream
- Majority of the aforementioned prior Expense Dollars have **one time cost** and paid with **Revenue**.

Into the Future

Open Tax is up 25.0% for 2013-14
 Property Tax is expected to rise 20.0% for 2013-14
 Sales Tax is expected to rise 10.0% for 2013-14

CURRENT UNMET CAPITAL NEEDS:
\$ 445,000

- Police: \$200,000 per City Engineer
- Police: \$100,000
- City Building: \$100,000
- Computer: \$45,000

Insurance and Retirement costs will continue to increase:

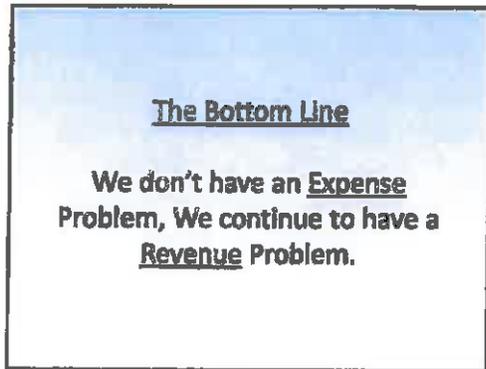
Health: 33% since FY 2011-12
 Vision: 6% since FY 2011-12
 Dental: 3% since FY 2011-12

Public Safety PERS: 25.4% in FY 2009-10
 26.5% in FY 2013-14

Non Public Safety PERS:
 7.3% in FY 2009-10
 8.3% in FY 2013-14

As other Agencies Raise Costs ours will rise along with them!

911 Emergency Communications Costs: If Salt Lake builds a new Public Safety Building and 911 Center the remaining manufacturers will have to absorb the cost: now paid by Salt Lake! Total System Operating Expenses are \$9M/year and our current share is 0.45% or \$40K. If Salt Lake drops out their 32% share of costs would be redistributed and our share becomes \$162K!



City Manger Dawson: Explained how the money from the sale of 73 acres was used. Quoting the Monterey Herald we received \$3 million. Unfortunately that was misleading as FORA was paid half of that \$3 million so our proceeds were \$1.3 million after fees. What happened with the rest: We paid \$977,000 in bills and with the insurance on Ft. Ord Property we are stuck paying because of our prior developer, we only have \$211,000 left of the \$3 million. Major expense drivers for the past 4 years are the following: Seaside Fire Contract cost went from per call charge to a contract; workers compensation premium costs: negotiated a \$215K loan to avoid loss of coverage; emergency communications digital radios and system costs \$120k; legal costs for Federal LLC litigation: \$380k and FORA interest and principal on PLL Insurance \$50k. Salaries have remained relatively flat the staff hasn't had a raise in 4 years, stating that he is the lowest paid City Manager on the peninsula and the longest tenured on the peninsula at 5 years. Carmel has gone through 4 city managers and Seaside, Marina, Sand City and Monterey are all on their 2nd one. Good news: Federal case settled; bills are paid; 2 potential businesses one being Topes which has eliminated the tree cutting services portion and has eliminated any impact on the wetlands. The second; the Medical Dispensary was approved by the planning commission and tonight we are hearing the ordinance. Into the future: Sales tax is up 5% over last year, prop tax is expected to meet or exceed last year, revenue producing businesses are in the works, will be receiving double franchise fees with Green Waste in 2015. However things that we still need to do, streets, police vehicles, city building repair and upgrades; and computer upgrades. Health insurance cost are up 33% since FY 2011-12, vision up 6%, Dental up 3%. Public Employee Retirement System has gone up 1% across the board. His concern is that every other agency is giving their staff raises and the cost is being passed on to us. 911 emergency is very costly at \$40,000 a year and if one of the biggest contributors Salinas drops out, our portion will be \$162,000.

Council Member Allion: Asked what was the settlement agreement for the Federal LLC case?

City Manager Dawson: \$250,000 out of escrow to Federal in addition we have to repay a loan of \$700,000 plus interest, plus \$500,000 out of any revenue made from the property.

Council Member Allion: Stated that means we still owe Federal \$1.2 million. So the quote in the herald is misleading.

(Information Item Only)

The Council considered **ITEM 4.C.1.** one time contribution (moved from Consent Agenda to be heard at this time in the meeting)

Vice Mayor Clark: Feels this item should be pulled and agendized in open session and give it a better title so people know what it is. Felt title was not enough information if you were reading it on one of the kiosks.

Council Member Allion: Feels this item should be heard at a different time maybe after the audit report.

Mayor Edelen: Feels this should be heard later also in the effort to remain transparent.

Motion: *Council Member Allion: Motion that this item be reworded and brought back next month.*

Second: *Council Member Ventimiglia*

Public Comment: *None*

Motion passed: *5-0*

The Council considered ITEM 6.B. Consider Ordinance No. 279, An Ordinance of the Council of the City of Del Rey Oaks Adding Chapter 4.00, Titled Medical Cannabis Dispensaries to the Del Rey Oaks City Municipal Code.

City Manager Dawson: Stated that he and the Mayor jointly decided to create a very open and transparent forum for Public deliberation on the merits and potential pitfalls of becoming the first Medical Cannabis Dispensary in Monterey County. This was accomplished by holding a Public Workshop/Study Session an hour prior to the regular City Council meeting on September 23, 2014. Public comment was taken at that meeting and as a reliable and respected source of information the Mayor of Sebastopol, California Mr. Robert Jacob called in via conference call to answer questions from a political perspective as well as from a dispensary owner perspective. There were attorneys and patient advocates on hand to offer testimony as well as concerned residents. The Chief of Police, Mr. Ron Langford was available to address issues of security and potential criminal activity.

After taking Public testimony the City Council voted 4-1 to allow the application for a Medical Cannabis Dispensary at 800 Portola Drive and Ordinance 279 as edited and refined by the City Attorney and City Manager, to proceed to the Planning Commission for review and decision based on their findings.

On October 8, 2014 the Planning Commission reviewed the application submitted for a Medical Cannabis Dispensary at 800 Portola Drive by Lonna Lewis-Blodgett, as well as the draft Ordinance 279, took Public testimony and asked numerous questions of the applicant and City Staff, which included the City Manager, City Attorney and Chief of Police.

Based on findings and after considering Public and Staff comments, the Planning Commission voted unanimously (6-0 with 1 member absent) to approve the application for the Medical Cannabis Dispensary at 800 Portola Drive and to send Ordinance 279 as amended by the comments and suggestions received at the meeting, back to the City Council for another Public hearing and approval.

Council Member Ventimiglia: Has no problem with the ordinance and likes how it's written.

Mayor Edelen opened the public hearing:

Ken Cuneo, Pacific Grove Council Member: Member of Sun Street Coalition for preventing drug abuse on the peninsula. Important that the financials were shown before this because a city has to be able to support itself. The other issue is public safety. Services need financing, it has to come from somewhere be it dispensaries or whatever. Other cities will be facing the same thing. These are tough decision that have to be made. What is the best for the common good. It's not cut and dry.

Gordan Horn: Works at Sun Street Center: Medical marijuana is available in a synthetic form called "Marinol". Doctors he works for want to make sure that they will be offering CBD (Cannabidiol). A lot of our youth abuse medical marijuana already. Is asking that we use some of our funding from it to educate youth.

Mary Jahr-Purvis: How did the use permit get approved before the ordinance get approved? Hours of operation hours of operation should be 10-7 M-F and 10-4 Sat and Sun. Has a friend that uses medical marijuana and can't work. There are 15 proposed parking spaces, with 8 or more staff, where will the customers park? Questions the background checks. Biggest concern, what will happen to this business at this location once California legalizes recreational.

David Purvis, DRO: Retired Monterey Police Officer and is very concerned about the dispensary. Knows there is a need for it but we do not need a dispensary.

Ron Kirkish, Gilroy: Sent a few emails that are very significant about Australia, Santa Barbara, etc and hopes that everyone read these. Talked about the US Attorney reports. Stated they will start enforcing dispensaries. Colorado just closed down several dispensaries. Things are not going to work out for the City with this.

Marcelino Sanchez: DUI Instructor at Sun Street Center. Is in favor as a community that if we are going to go green we should also support education about this.

Ilene Vasquez, Seaside: Concerned about the safety and how the youth will get a hold of marijuana.

Abra Taukman, Sun Street Center: Trying to get the word out that there are alternatives to using drugs and alcohol. Every city on the peninsula except Del Rey Oaks has a ban on dispensaries. These cities spent a lot of time and research. The revenue from a dispensary only covers 23% of the extenuating costs. Money should go to education. Nothing in the ordinance talks about how the city will get revenue.

Pat Lintell, Del Rey Oaks: Does support medical marijuana but is apposed to the location. Feels it should be in a city center and away from residential. How will this benefit the city? Sales Tax? If sales tax is not paid on time can the business be closed? Why would they offer a room for the police department? Why is it free? Doesn't see any need to rush into this. Do more research, check with police departments, and schools. Doesn't understand how you could approve a use permit before the ordinance.

Lydia Lukasik, Del Rey Oaks: Was away from here for 28 years and loves this area. Has seen many programs about young men selling drugs to make ends meet. If we live in this area we should pay for it. Raising taxes may be something we have to do.

Antonella Randazzo, Del Rey Oaks: Lives very close to the proposed dispensary and knows we have worked so hard to keep kids off drugs. Talked about a Santa Cruz dispensary and how the crime has risen.

Ms. Davila, Del Rey Oaks: Worked for the sheriffs office and has seen how many people are convicted for drugs and doesn't want to live with these kind of people down the street.

Unidentified Resident on Hillwil, Del Rey Oaks: Concerned mostly about property values. Shares the concerns of the former Monterey police officer and asks them to think very seriously before going through with this.

Sam Rashkin, Pacific Grove: Read the ordinance and read that the use permit is renewable every year. Wants to make sure that the dispensary is regulated properly and stressed this is a legal thing that's been in place since 1996. Feels the council is brave. For the media: A lot of people call this a pot shop this is a medical facility, not a pot shop.

Unidentified Speaker: Worked in London at a dispensary and this is also how you can offer other medical therapies such as acupuncture and these things can go hand in hand. The crime went down because it was out in the open and helped to eliminate back alley deals. Doesn't feel teenagers should be able to use it. Doesn't feel a residential area is the best place.

Jeff Lind, Spreckles: Supports the ordinance in 3 ways, balance, centralization, community. Balances the concerns the community has safeguards built in. Centralization: by having one dispensary that is centralized makes it easier to control. Community: asking the public what they want, how it should be done taking residents into consideration. Everyone should support the ordinance.

CLOSED PUBLIC HEARING

Mayor Edelen: Congratulated the audience on how respectful everyone has been. Has friends on both sides of this. Doing the best we can on this.

City Attorney Trujillo: The city has bent over backwards to inform the public. Stated that we had a special meeting first and had special representatives here. This is an allowed use so there was no special application needed. Then the audience had a second chance with the Planning Commission and the Planning Commission also had the draft ordinance to refer to in their discussion about the use permit. Now it's the Council's time to discuss these matters together and discuss the ordinance and make any changes necessary. Feels the City has given ample opportunity to hear any opinions. If it passed then there will be a second reading.

Mary Purvis: What happens if the ordinance isn't passed?

City Attorney Trujillo: They did receive approval and this is a legally compliant document but if they decide not to approve it they can ask that the Planning Commission revisit the application.

Mayor Edelen: Should this ordinance be moved forward? Wants to take a vote.

Council Member Allion: Needs clarification. Has a problem with moving forward on this if they have questions that haven't been answered and feels there should be more clarification on the question.

Mayor Edelen: If we want to kill the ordinance, then we don't adopt it. If we agree there should be an ordinance then the question is should we modify it?

Council Member Ventimiglia: Review the ordinance and move it forward.

Vice Mayor Clark: Stated she is still against dispensary. We are a very large residential area. Doesn't feel this is the proper business for our community. If it was near my home I'd be going door to door asking for them to back me up.

Council Member Ventimiglia: Reviewed the ordinance and feels it's a tight ordinance. The only question was on the non-profit portion. If there ever was a profit that profit would have to be given back to the public. Referred to Page 9, (E)(13), ..any profit would go to the City of Del Rey Oaks. The medical aspects of it is that everyone should have this availability. This is not a "pot shop" or a "head shop", it's a way for people in pain to get medication. This is a two edged sword, medical marijuana dispensary needed for pain relief versus a recreational use and they are two different issues.

Council Member Cecilio: Agrees with Council Member Ventimiglia. This is in a commercial area. It's something that is needed. We are a bedroom community but we do have commercial areas. There are safety factors built into the ordinance.

Council Member Allion: Would like to see something in this ordinance about education. Went into the crime website and wasn't able to reproduce these maps and feels city staff should do more research into these claims being made. Research at the University of Michigan found that the use of marijuana declined in the 1990's and then it started to increase. We need to pay attention to our youth and include something in this about educating our youth in this ordinance. Not opposed to a dispensary if it's done properly and in the right location. The thing that confuses him is we have a drug store across the street, Walgreens, we have a Safeway which a pharmacy across the street so we need to be sensitive. Would like to see some of these profits go to education of youth. Someone said it appears we have the cart before the horse, referring to page 12 , Section 4.13 reading that after the application has been received and all the fees have been paid then the background checks have been done then the City Manager will forward the application to the Planning Commission. Asked if the City Manager did the background check? We did not have an ordinance in place but sent the use permit to the Planning Commission anyway. Did you do a background check of all the employees?

City Manager Dawson: Stated, yes he did do background check of the applicant and has a signature of the applicant that background check will be done of the employees as they become known including live scan fingerprints.

Council Member Allion: So you've done all this despite the fact that we didn't have an ordinance. Feels his point is still valid. We put the cart before the horse, the ordinance should have been approved before the application went before the Planning Commission. Stating he wanted to make his point clear to the City Manager that the application should not have gone to the Planning Commission before the Council heard the ordinance.

Council Member Ventimiglia: That's debatable. Feels we have done everything in the proper order. Can't do the background check of the employees until they are hired and he has stated he will be doing that.

Mayor Edelen: There will be no arguing and council must go through the chair.

Council Member Allion: Doesn't understand section 4.03 (F). One long sentence doesn't make sense. 4.10 D (2) Who has the authority to approve the increase in size? Should be very specific. Who reviews the yearly permit?

City Manager Dawson: The city manager

Council Member Allion: Specify who will conduct review should be added page 11 section (5) Why is 18 the age?

Mayor Edelen: 18 is when you can get a prescription, when you can be drafted, when you can vote.

City Attorney Trujillo: This is a statute not a law so 18 is the correct age.

Council Member Allion: Clarify who issues the card. How do we address the concerns about getting a medical marijuana card?

Mayor Edelen: That's a medical decision between the doctor and the patient.

Council Member Allion: Still leaves some concern about the type of facility, seedy or a nice establishment.

Council Member Ventimiglia: Goes back to the one year approval. You have to start it somewhere and we are doing everything we possibly can. Same questions can be asked about prescriptions.

Vice Mayor Clark: How easy or hard is it to cease business if needed. Are we subject to lawsuits?

City Attorney Trujillo: The ordinance has built in provisions for this. If they are violating the law then we can always go through a court process. You can't always avoid litigation.

Vice Mayor Clark: If we see it's being abused by adults over 18 year olds and if it becomes seedy where does it say we can shut it down?

City Attorney Trujillo: If they are at the legal age and have a card there isn't anything we can do.

Council Member Cecilio: 3 or 4 pages about suspension

Vice Mayor Clark: If people are abusing their cards we can't do anything?

Council Member Cecilio: Asked to the City Manager: What is your feeling about the people wanting to open this? Do they seem seedy or shady to you?

City Manager Dawson: They have been very open about their backgrounds, cooperative. They have made security suggestions we hadn't even thought of. He is looking out for the City's interest. He wants to be sure this is air tight ordinance. He can shut down the dispensary within 5 days. Doesn't feel anyone investing 1.5 million in buying the building is going to open a seedy business. They are serious about doing this right. Gets people in his office with all these great ideas but when it comes time to make a deposit he never sees them again.

Council Member Allion: Likes the concept of youth education.

Mayor Edelen: If there is any profit or cash flow some of it should go to education. We are not that far apart.

Council Member Ventimiglia: Community Human Services would also benefit.

Mayor Edelen: Absolutely! We know people that helped by medical marijuana. We know there are ways to get cards through certain unscrupulous doctors. Feels it can be controlled. We will know within 6 months if we have a great opportunity or fall on our sword. One suggestion on page 2 there should be no sale of drug paraphernalia should be sold. They should not be able to imbibe it anywhere in the city. Doesn't want a "pot shop".

Council Member Ventimiglia: What about something they need to actually use it?

Mayor Edelen: Will ask staff to investigate. On page 5 of 15 Paragraph D.4. Security personnel or local law enforcement there under contract...Wants that stricken from the document. He talked to the Chief of Police and he doesn't want his personnel there under contract. They will supply their own security personnel. Page 6 Paragraph D. Cannabis shall not be consumed with 200 ft. He wants it to be that nowhere in the city shall cannabis be consumed in the City of Del Rey Oaks except in a private residence.

Council Member Allion: Suggestion of hours are changeable?

City Manager Dawson: That is a planning commission issue as a condition of the permit. It gives a broad range of the hours.

Council Member Allion: The way it reads now is very specific in the operating hours.

City Manager Dawson: That is the timeframe. The PC can compress that timeframe.

Council Member Ventimiglia: 10-8, Sunday 10-6 and closed on all legal holidays.

Motion: *Council Member Ventimiglia approve with modification for second reading*

Second: *Cecilio*

Council Member Ventimiglia: Aye

Councilmember Clark: No

Council member Cecilio: Aye

Council member Allion: Aye

Mayor Edelen: Aye

Public Comment: *None further*

Motion passed: *4-1*

City Manager Dawson: Asked to go over what he heard are the corrections/suggestions:

Council Member Allion requested add contribution for educational component

Mayor Edelen requested to add a provision to no sale of paraphernalia on the premises

Change to Page 3. An annual permit renewal to be handled by City Manager

Change to Page 5.C. Hours shall only be operated the days and hours conditioned by the planning commission, scratch days and hours

Change to Page 6, 5. G. Consumption not on premises and nowhere in Del Rey Oaks except in private residences.

Change to Page 9. Paragraph 3, Cannabis will not purchased and sold for profit, add any excess over a non-profit will be given back to the community of Del Rey Oaks.

STAFF REPORT:

City Manager Dawson:

Working with Topes getting that project ready. Realigned their project to be out of the wetlands area. Working with Monterey Peninsula properties groups hired EPS and working on a trail network through the monument.

COUNCIL REPORTS:

Council Member Allion: Ground water replenishment project moving forward.

Council Member Cecilio: Attended seaside sanitation.

Vice Mayor Clark: Attended the MST and RTA and thanked Irene Barlich for the letter.

Council Member Ventimiglia attended AMBAG and wants to talk to the City Manager about low cost home loans. Community Human Services received financial audit which turned out good. Sharon Pagan is now the CFO after current CFO retired.

Mayor Edelen: Attended all his meetings. Water wars are starting up again. Wants to shut down the water authority as soon as possible. Board of supervisors doesn't want to join the water authority. Must have a united front but with the board of supervisors not wanting to join it makes it dicey. Suggested the Mayors group should be part of the water management district which will make it more balanced. Attended DROCAG meeting and the picnic profit was \$319 so that will go toward the dog park.

Council Member Allion: Waste Management district will be here next month to do a presentation.

City Manager Dawson: Yes at the November 18th meeting there will be a 10 minute presentation.

8:47 p.m.: Adjourned meeting into closed session.

8:50 p.m.: Convened into closed session to here the following:

Performance Evaluation and Labor Relations – Government Code Section 54957 and 54957.6, public employee performance evaluation and labor relations with unrepresented employee (City Manager).

9:07 p.m.: Council met in closed session to review and comment on the performance evaluation form that will be used to evaluate the City Manager, suggestions were made and the form will be modified as discussed

9:08 p.m.: Adjourned meeting to next regular meeting.

Next meeting: Tuesday, November 18, 2014 at 6:00 P.M.

Approved:

Signature

Date

**REGULAR MONTHLY MEETING DEL REY OAKS PLANNING
COMMISSION WEDNESDAY, OCTOBER 8, 2014 AT 6:00 P.M.
CHARLIE BENSON MEMORIAL HALL**

Present: Commissioner Reikes, Jaksha, Weir, Hayworth, Green and Chairman
Gaglioti
Absent: Commissioner Goetzelt
Also Present: City Manager Dawson, City Attorney Trujillo and Deputy City Clerk
Minami

PLEDGE OF ALLEGIANCE:

CONSENT AGENDA:

The Commission considered **ITEM 3.A.**, Planning Commission Meeting Minutes,
September 10 2014

*Deputy City Clerk Minami: Commissioner Goetzelt asked via e-mail that the date of
the next meeting is changed to Oct. 8, 2014*

Motion by Commissioner Jaksha to approve, seconded by Commissioner Hayworth

No comments

6-0

PUBLIC COMMENT:

George Riley, Public Water Now: Reads “Water Update 1, Protest CDO fine” flyer
from September 2014, hands it out to Commission, public and puts into record.

*History of Cal Am to reduce pumping from the Carmel River.

*Cal Am won’t meet deadline of 2016, will be fined and passing it off to consumers, will
vigorously protest.

*Demands that the PUC hold a public hearing on the Monterey Peninsula if Cal Am
attempts to charge the fine to ratepayers.

BUILDING REPORT:

The Commission accepted **ITEM 5.A.**, Building Activity Report, Sept. 2014

NEW BUSINESS:

The Commission considered **ITEM 6.A.**,

- A. Owner/Applicant's Name:** Scott Donaldson
File Number: ARC#14-06/CUP#14-15
Site Location: 1007 Portola Drive
Planning Area: APN# 012-491-010
Environmental Status: Categorically Exempt
Project Description: Requesting Architectural Review to remodel and build addition to existing 1148 square foot single family dwelling to include the following: add 325 square feet to house, convert the existing 223 square foot garage to kitchen, add 820 square foot garage and hobby shop, add 110 square foot deck above shop area at the rear of garage and add 124 square foot covered front porch that will be open on front and side of house. Use permit to be decided on at the time of meeting for 42 square feet of new front porch that extends 3 feet in the front yard setback. Materials and colors to coincide with the Del Rey Oaks Municipal Code.
Recommended Action: Analyze provided material, make appropriate findings, impose conditions as appropriate, and give direction to staff.

Scott Donaldson, Applicant: Remain one story and existing roof line.

City Manager Dawson: Reads letter out loud from Mrs. Bettiga into record.

Commissioner Green: What is the propose of the observation deck?

Scott Donaldson, Applicant: Sun deck.

Commissioner Green: It doesn't look into houses?

Scott Donaldson, Applicant: No, yards only.

Commissioner Hayworth: Talked to neighbors?

Scott Donaldson, Applicant: Yes, before and after the netting was up, The Benoits are in favor of it.

Commissioner Weir: Variance needed for front porch?

Scott Donaldson, Applicant: Staff advised to apply for a Conditional Use Permit. 30 feet from road, it was surveyed.

City Attorney Trujillo: Yes, variance is needed.

City Manager Dawson: Asks Frank Lucido, Surveyor to explain. Set back and property line.

Frank Lucido, Surveyor: Discussion with staff and concluded variance wasn't needed because it isn't an enclosed deck. The houses along Portola, built in the 40's and 50's are anywhere from 20 to 30 feet from the road.

City Manager Dawson: Non-conforming. Is it higher than 18"? If not, then it doesn't need a variance.

PUBLIC COMMENT:

Mikki Breenan, Wallace Place: Too massive for the lot, 820 square foot garage is too big, wants the Commission to make a condition that the residents not park on the street and use the garage.

Commissioner Weir: How much car space in garage?

Scott Donaldson, Applicant: Enough for 2 cars plus shop.

Commissioner Jaksha: The description sounds huge, but it fits on the property and will look good. Rather have a big garage, then cars on the street.

Commissioner Hayworth: Rain runoff issue is a problem with the neighbors house, how will that be mitigated.

Deputy City Clerk Minami: Discovered during the Plan Check process, and will have to coincide with the Strom Water Ordinance. Asks for Commissioner Goetzolt, inside or outside access to deck.

Scott Donaldson, Applicant: Exterior.

Motion by Commissioner Jaksha to approve ARC #14-06 & CUP#14-15 with the condition that the front deck height is less than 18" or will need a variance, seconded by Commissioner Reikes.

No public comment was received.

Motion passed 6-0

The Commission considered **ITEM 6.B.**,

Owner/Applicant's Name:	Lonna Lewis-Blodgett Monterey Bay Alternative Medicine
File Number:	CUP#14-16
Site Location:	800 Portola Drive
Planning Area:	APN# 012-471-015
Environmental Status:	Categorically Exempt
Project Description:	Requesting Conditional Use Permit to operate a Medical Cannabis Dispensary.
Recommended Action:	Analyze provided material, make appropriate findings, and give direction to staff.

Chairman Gaglioti: The role of the Commission is to look at the application and not to and analyze the ordinance. Accepts the letters that were received in opposition to this item: David and Mary Purvis of 821 Portola Drive, Del Rey Oaks, Larry and Colleen Bettiga of 988 Portola Drive, Del Rey Oaks, and Laura Dadiw of Pacific Grove.

Lonna Lewis-Blodgett, Applicant: Thanks staff, wants to have the best place in the State of California.

Commission Green: Very important to have good staff and product knowledge.

Lonna Lewis-Blodgett, Applicant: Counselors will be on staff and they will be trained in different strains.

Commissioner Hayworth: Other tenants?

Lonna Lewis-Blodgett, Applicant: Would like to have alternative sources, presently there is the chiropractor.

Commissioner Hayworth: How is product purchased, grown?

Lonna Lewis-Blodgett, Applicant: Expert growers that test product before it's accepted to sell on site.

Commission Green: Other businesses would have to have business licenses to do business in the City.

Commissioner Hayworth: How many patrons a day and time of day? How much is a patient allowed to have, and how often can they purchase.

Lonna Lewis-Blodgett, Applicant: Hard to say, they will be prepared before the doors are open. Volume isn't important. Wants a relaxing environment. The prescription is verified first and must be written by a certified licensed M.D. or O.D., and will make sure it's not abused.

Commissioner Hayworth: Staff and patrons have to be 18, why?

Lonna Lewis-Blodgett, Applicant: 18 year olds are adults.

Commissioner Hayworth: All smoked?

Lonna Lewis-Blodgett, Applicant: Different products, edibles in the future.

Commissioner Hayworth: Holding security tape for 72 hours?

Chief Langford: Agreed with the applicant to change the time to 30-60 days.

Commissioner Hayworth: What happens when it's legalized?

Lonna Lewis-Blodgett, Applicant: No one knows what exactly will happen.

Commissioner Hayworth: Monterey County issues cards?

Commissioner Green: No.

City Attorney Trujillo: Doctor gives a prescription but the County will be able to provide a medical I.D. with photo for law enforcement proposes.

Commissioner Weir: Advertisement. No dancing marijuana leaves? Likes the signage proposal.

Commissioner Reikes: Wants them to be successful, but is concerned about being overly busy. How many customers?

Lonna Lewis-Blodgett, Applicant: Rather than 8 employees, if it gets busy hiring more. Wants to handle it very professionally.

Commissioner Reikes: Parking and traffic.

Chief Langford: Simple traffic study on Portola, resident/commuter or carwash non resident. Will address as it comes up.

Commissioner Hayworth: After City Council approval, does it come back?

City Manager Dawson: No, this is it. The first reading will be on Oct. 28th City Council and the 2nd will be on Nov. 18th. The signage will meet ordinance 279 and our sign ordinance.

Commissioner Green: Letters of concern were about business hours.

Lonna Lewis-Blodgett, Applicant: Trying to accommodate working customers, that will need to come after work, after 5:00 pm or on the weekends.

Chairman Gaglioti: Hours are a problem for him, lives down the street.

Lonna Lewis-Blodgett, Applicant: Must be open during the time that is on the application. Most dispensaries are open until 9 or 10 at night, and didn't want to be open that late. Wants customers to turn left out of drive way and not go down Portola, and will incorporate the rule about turning left into the membership agreement.

Pharmacies are open late.

Chairman Gaglioti: Nuisance? Shed patients, if the need comes up.

City Manager Dawson: The applicants have been more than cooperative and has no doubt that if need be, between the city and the applicant all situations will be rectified.

Chairman Gaglioti: Frequency of visits? And worried about being burglarized.

Lonna Lewis-Blodgett, Applicant: Some people buy monthly, weekly or daily. Think of it as a pharmacy. There is a regulation that the amount that a person can have on them legally.

Chief Langford: Much more concerned about satellite banks than this business.

Chairman Gaglioti: Loitering ordinance?

Chief Langford: Three ordinances have been given to the City Manager: 1) sit, lie, stand similar to the one that Monterey just passed. 2) No loitering around business with A.T.M.'s. 3) Work with owners of businesses to help with no trespassing issues.

Recommends passing all three.

Chairman Gaglioti: Has the applicant agreed to do a traffic study?

City Manager Dawson: Yes.

Chairman Gaglioti: How does adding staff help with getting busier?

Lonna Lewis-Blodgett, Applicant: Each patient will have one employee with them. More patients, more employees.

Chairman Gaglioti: Is the PD sub station a condition of approval?

Lonna Lewis-Blodgett, Applicant: If it will benefit Del Rey Oaks, then yes. Loves the idea.

Chief Langford: The City Hall will always be the home of DROPD. They won't need the entire top floor. Meeting rooms are needed. How can you be more transparent, than to have the PD move in with them? Overlooks the biggest problem, Safeway as well as the entire intersections with two other jurisdictions.

Commissioner Reikes: Rent?

Lonna Lewis-Blodgett, Applicant: No.

PUBLIC COMMENT:

Valentia Piccinini, Pebble Beach: Thanks Del Rey Oaks and is encouraging the Commission and Council to approve the ordinance. A patient for over 25 years and wants Del Rey Oaks to be the first one in Monterey County. Never smoked a joint in her life, suckers or edibles. Believes there are more than 300 Monterey residents that go to Santa Cruz right now that will be patients in Del Rey Oaks.

Antonella Randazzo, 837 Portola Drive: 800 patients equal 800 cars, and that's a HUGE problem!!

Mary Trucksis, 833 Portola Drive: Should be a business park. Happy to see children again in the neighborhood. Not enough data about traffic and parking. Speed bumps are needed, and it's only going to get worse. When she was in Chicago the police department says the crime is for the cash, not the pot.

Wendy (friend of Mary's): Knows someone who has a dispensary in the industrial area of Oakland and there is no foot traffic. Industrial area is better. Don't have it in an area, were there is high traffic. Why does the Chief like that location?

Chief Langford: The location is ideal for a stand alone business such as this, and the service level is all ready a D, F being the worse. Comparing Chicago and Oakland to Del Rey Oaks is apples and oranges.

Colin Disheroon, CEO of Santa Cruz Mountain Naturals and Association of Standardized Cannabis: They are serving 2 to 3 thousand Monterey County patients presently in there Santa Cruz location. Great conversation between neighbors and the people who get relief from cannabis. Traffic will increase, consider between 100 and 200 patients and cars a day. One of his businesses has been broken in and vandalized three times but nothing was stolen. Didn't have support of the local Sheriff's Department. Glad to see the local PD is here and assisting with the process. Open and available to help with any aspect of this project.

Pat Lintell, 860 Rosita Rd.: Went to the Monterey Study session and sat with Dan. Asks the Commission and Council not to rush into this. Del Rey Oaks isn't the place for it, let it go into Monterey. Needs to see a business plan, there will be more traffic, accidents, and crime. Employees will be parking on the street in front of residential. If there are 2 "cannabis clubs", 1 in Monterey and 1 in Del Rey Oaks, our City won't make as much money. Totally supports the idea of Cannabis clubs, just not in DRO.

Antonella Randazzo, 837 Portola Drive: Asks if the Santa Cruz business is in a residential area? The lot across Portola is vacant and has concerns.

Colin Disheroon: Less than 300 feet away from residential area, and was granted a variance. And they are close to a middle school. Staff is very pro active and has no issues with students and parents in 3 years.

Chairman Gaglioti: These concerns need to be address when the City Council hears the first reading of the ordinance.

Antonella Randazzo, 837 Portola Drive: Seems like the decision has been made and applicant is being congratulated.

Chairman Gaglioti: It isn't the final meeting.

Antonella Randazzo, 837 Portola Drive: Seems like it is!

Chairman Gaglioti: It's not, the ordinance will be heard on Oct. 28th and then again in November. It's the second of at least 4 meetings. Shares her concerns.

Jim Clark, Via Verde: Bad location. Zoning issues, Stone Creek and lack of parking spaces is the previous Planning Commission fault. Seaside Planning Commission messed up on Chili's and Starbucks. Is it really medical "mary jane" only? That's like thinking that only people with handicaps have handicap parking plaques. And we all know that's not true! When it's legal, the applicant will sell "giggle smoke" to anyone for profit. And then we will have the element that we don't want in our City.

Neighbors Sand City and Seaside, who would sell their mothers pet poodles for tax dollars and they aren't opening one up. Now our City Council is talking about how much money we can make from "boo boo bush". Argument is that if this won't bring in an undesirable element, then why is a Police Department sub station needed?

Aaron Johnson, L&G Attorneys: A patient and advocate for medical cannabis due to neck injury. Represents several shop owners. Legal in Denver and they have cannabis shops with gels and edibles. Once it was legal, it's didn't turn into a "420 hemp fest". Take the C.O.P.'s advice, don't hide it on the out skirts of City. People that open these shops want regulation and want to be considered legitimate businesses in the City.

Sam Raskin, Monterey: Lighthouse shop wasn't handled correctly and was against it. In favor of Ordinance 279, staff report and location. Bench mark is nearly perfect. A one year permit is very important and powerful. It will be coming to every city soon.

Public Comment Closed

Commissioner Hayworth: Did the ordinance come around because of the applicant? Parking? Could this be appealed? Can license be revoked in a year or sooner?

City Manager Dawson: Yes, and the ordinance is from Santa Rosa with a few changes to meet DRO's needs. It's the model in the State. Parking isn't a problem, 15 parking spots, plenty for the use. Permit could be ministerial but since we are transparent there was a study session and now this meeting. Application matches the ordinance and the

City is well protected. Could be appealed, just like any other land use matter brought to Planning Commission for approval.

Commissioner Hayworth: Wants to keep the tone of the meetings and comments respectful. A few things have been said and done lately that are dis-respectful. It's to heal and help and not for recreational use.

City Manager Dawson: This is a non-profit business and any extra money must come back into the City. 40% tax in Colorado and it goes directly to schools. This use has been legal in the State of California since 1996.

City Attorney Trujillo: Ordinance is almost 10 years old. Spoke to code enforcement in Santa Rosa and from that stand point there weren't any nuisance issues when they implemented their ordinance. The ordinance addresses issues that might arise, plus it will help to have the other 3 ordinances in place that C.O.P. recommended.

Commissioner Jaksha: If someone reads the Ordinance, all most all of the questions will be answered. To Mr. Clark: Planning Commission decisions were in other cities and as far as Stone Creek parking is concerned, it much better than they first applied to build. Hope DRO isn't doing this for revenue only, because it is really going to help people. Thanks the speakers. Honesty about the problems in Santa Cruz area.

Ordinance needed for loitering. Thinks a 6 month permit would help. Doesn't like the "not in my back yard" attitude, it's going to happen, might as well be out in the open on the corner of a major intersection. Speed bumps are a necessity and left hand turn only sign coming out of driveway. How much is the limit and can cards be "faked"?

Colin Disheroon: According to SB420, the standard amount a person can have on them is 8 ounces. There are probably fake ID's but the shops call to verify every ID.

Commissioner Jaksha: Mr. Clark's comment weren't fair, it's not a pot shop. How does Seaside feel about it, because the one side of the building is in Seaside jurisdiction? Signage?

City Manager Dawson: All of the concerns will be addressed in the new ordinance.

Commissioner Jaksha: How many members will you have?

Lonna Lewis-Blodgett, Applicant: 10 to 20 thousand, based on the numbers in Santa Cruz County, but hard to say because it's new here.

City Manager Dawson: As part of the ordinance in front of the Commission tonight, the city can limit the amount of members.

Lonna Lewis-Blodgett, Applicant: Explains the waiting area in the front of business, so not more than the allowed members will be in the shop at any one time.

Commissioner Weir: Great speakers, thanks all.

Commissioner Reikes: Was the industrial ever looked at, with the amount of members they referring to, they might need a different space.

City Manager Dawson: Yes, but 800 Portola is a legit business and a great location.

Commissioner Weir: Likes the location, being out in the open is best. Put old ideas and misconception to rest.

Commissioner Jaksha: Monterey will eventually open one and will be less of a burden on our location.

Chairman Gaglioti: Raised here and on Portola, traffic has always been bad and it defiantly will get worse once this business is open. Kids riding bikes. Traffic data is important and glad to hear the applicant will pay for the measures to mitigate adverse impacts. The Commission has done more homework on this type of business and hopes that they do the same with others. In regard to criminal activity, the data doesn't support the speculations that are brought up in these meetings. Banks are two fold in criminal activity. Free pass because of the ordinance, not like if it's a Starbuck or Chili's. Comfortable with the safeguards in the ordinance.

Motion by Commissioner Weir to approve CUP 14-16 seconded by Commissioner Reikes.

No further public comment was received.

Motion passed 6-0

OLD BUSINESS: None

ANNOUNCEMENTS/COMMENTS:

Commissioner Jaksha: Thank you for the street repair.

NEXT MEETING: Wednesday, November 12, 2014 at 6:00 p.m.

8:15 p.m. Meeting Adjourned

Approved:

CITY OF DEL REY OAKS

Claims Report

October 2014

<u>Date</u>	<u>Num</u>	<u>Name</u>	<u>Memo</u>	<u>Amount</u>
AFLAC				
10/13/2014	14592	AFLAC	OCT 14 EMPLOYEE PAID PREMIUM INV. 627062	281.80
Total AFLAC				281.80
AMERICAN LOCK & KEY				
10/13/2014	14593	AMERICAN LOCK ...	INV. 27738	359.14
Total AMERICAN LOCK & KEY				359.14
AT&T CAL NET 2				
10/13/2014	14594	AT&T CAL NET 2	PHONE 7/19/14-8/18/14	237.67
Total AT&T CAL NET 2				237.67
CALIFORNIA-AMERICAN WATER				
10/13/2014	14595	CALIFORNIA-AME...	WATER 7/22/14-8/20/14	432.79
Total CALIFORNIA-AMERICAN WATER				432.79
CARVALHO, KIMBERLY R				
10/15/2014	14534	CARVALHO, KIMB...	Reimburse for underpayment	176.62
Total CARVALHO, KIMBERLY R				176.62
CHEVRON				
10/13/2014	14596	CHEVRON	SEPT AND OCT 2014 FUEL	848.96
Total CHEVRON				848.96
CITY OF MONTEREY				
10/13/2014	14597	CITY OF MONTER...	INV. 61453 JULY 2014 INSPECTION COSTS	580.50
Total CITY OF MONTEREY				580.50
CO-POWER				
10/13/2014	14598	CO-POWER	OCT 14 DELTA DENTAL PREMIUM	1,847.65
Total CO-POWER				1,847.65
COAST COUNTIES GLASS, INC.				
10/13/2014	14599	COAST COUNTIES ...	REPLACE WINDOW IN COUNCIL CHAMBERS	400.00
Total COAST COUNTIES GLASS, INC.				400.00
COMCAST HIGH SPEED INTERNET				
10/13/2014	14600	COMCAST HIGH S...	T.V. AND INTERNET 9/10-10/9/14	97.42
Total COMCAST HIGH SPEED INTERNET				97.42
COUNTY OF MONTEREY, EDD				
10/01/2014	14587	COUNTY OF MON...	AS PER RESO. 2014-12, RE PAYMENT OF CDBG ...	43,175.00
Total COUNTY OF MONTEREY, EDD				43,175.00
DENISE DUFFY & ASSOCIATES				
10/30/2014	14537	DENISE DUFFY & ...	Tope Facility - Meetings and correspondence 6/16/14...	758.75
Total DENISE DUFFY & ASSOCIATES				758.75
ENTERSECT CORPORATION				
10/13/2014	14601	ENTERSECT CORP...	POLICE ONLINE SERVICE INV. 814EP31132	79.00
Total ENTERSECT CORPORATION				79.00
FIRST AMERICAN REAL ESTATE SOLUTIONS				
10/13/2014	14602	FIRST AMERICAN ...		230.00
Total FIRST AMERICAN REAL ESTATE SOLUTIONS				230.00
GLOBALSTAR USA				
10/13/2014	14603	GLOBALSTAR USA	SATELITE PHONE AUG 2014	54.09
Total GLOBALSTAR USA				54.09
HOME DEPOT CRC				
10/13/2014	14604	HOME DEPOT CRC		4,548.77
Total HOME DEPOT CRC				4,548.77
I.M.P.A.C.GOVERNM'T SER				
10/13/2014	14605	I.M.P.A.C.GOVERN...	MANAGING ACCOUNT #: 4246-0445-5564-9924 S...	2,320.16

CITY OF DEL REY OAKS
Claims Report
October 2014

Date	Num	Name	Memo	Amount
Total I.M.P.A.C.GOVERNMT SER				2,320.16
MONTEREY COUNTY PARKS				
10/13/2014	14606	MONTEREY COUN...	RENTAL OF RIFLE RANGE AT LAGUNA SECA 8...	100.00
Total MONTEREY COUNTY PARKS				100.00
MONTEREY TIRE SERVICE				
10/13/2014	14518	MONTEREY TIRE ...	INVOICE 1-62449 acct. 1-59724 TIRES AND WOR...	786.47
Total MONTEREY TIRE SERVICE				786.47
NEXTEL COMMUNICATION				
10/13/2014	14519	NEXTEL COMMUN...	NEXTEL RADIO- PW/PD/CM 8/12-9/11/14	373.57
Total NEXTEL COMMUNICATION				373.57
OFFICE DEPOT				
10/13/2014	14520	OFFICE DEPOT		1,038.58
Total OFFICE DEPOT				1,038.58
P.E.R.S.-HEALTH				
10/13/2014	14521	P.E.R.S.-HEALTH	HEALTH PREMIUM oct 2014	12,532.57
Total P.E.R.S.-HEALTH				12,532.57
PERS				
10/13/2014	14522	PERS		33,534.96
Total PERS				33,534.96
PERS - 457 PLAN				
10/15/2014	14591	PERS - 457 PLAN	Young 10/2014/1	500.00
10/15/2014	14591	PERS - 457 PLAN	Dawson 10/2014/1	300.00
10/15/2014	14591	PERS - 457 PLAN	Young 10/2014/2	500.00
10/15/2014	14591	PERS - 457 PLAN	Dawson 10/2014/2	300.00
Total PERS - 457 PLAN				1,600.00
PG&E				
10/13/2014	14523	PG&E	GAS & ELECTRIC 8/15/14-9/15/14	2,740.91
Total PG&E				2,740.91
PG&E-GJM&218				
10/13/2014	14524	PG&E-GJM&218	6817283169-2	51.41
Total PG&E-GJM&218				51.41
PITNEY BOWES-QTLY INV				
10/13/2014	14525	PITNEY BOWES-Q...	postage machine rental invoice #5427068-SP14	192.69
Total PITNEY BOWES-QTLY INV				192.69
PITNEY BOWES PURCHASE POWER				
10/13/2014	14526	PITNEY BOWES P...	POSTAGE ACCT. 8000900003463050 SEPT 2014	368.40
Total PITNEY BOWES PURCHASE POWER				368.40
PNC Equipment Finance				
10/13/2014	14527	PNC Equipment Fina...	PD RADIO LEASE # 164718000 (QUARTERLY PA...	5,937.48
Total PNC Equipment Finance				5,937.48
PURE WATER				
10/13/2014	14528	PURE WATER	DRINKING WATER INV. 250419	64.69
Total PURE WATER				64.69
QuickBooks Payroll Service				
10/14/2014		QuickBooks Payroll ...	Fee for 10 direct deposit(s) at \$1.60 each	16.00
10/14/2014		QuickBooks Payroll ...	Fee for 10 employee(s) paid	15.00
10/14/2014		QuickBooks Payroll ...	Monthly processing fee for Oct 2014	99.00
10/14/2014		QuickBooks Payroll ...	No state fee for CA for Oct 2014	
10/14/2014		QuickBooks Payroll ...	Created by Payroll Service on 10/10/2014	4,309.00
10/14/2014		QuickBooks Payroll ...	Created by Payroll Service on 10/10/2014	487.02
10/14/2014		QuickBooks Payroll ...	Created by Payroll Service on 10/10/2014	487.02
10/14/2014		QuickBooks Payroll ...	Created by Payroll Service on 10/10/2014	1,447.10
10/14/2014		QuickBooks Payroll ...	Created by Payroll Service on 10/10/2014	215.00

CITY OF DEL REY OAKS

Claims Report

October 2014

<u>Date</u>	<u>Num</u>	<u>Name</u>	<u>Memo</u>	<u>Amount</u>
10/14/2014		QuickBooks Payroll ...	Created by Payroll Service on 10/10/2014	23,811.81
10/14/2014		QuickBooks Payroll ...	Fee for 1 direct deposit(s) at \$1.60 each	1.60
10/14/2014		QuickBooks Payroll ...	Fee for 1 employee(s) paid	1.50
10/14/2014		QuickBooks Payroll ...	Created by Payroll Service on 10/10/2014	5.00
10/14/2014		QuickBooks Payroll ...	Created by Payroll Service on 10/10/2014	4.90
10/14/2014		QuickBooks Payroll ...	Created by Payroll Service on 10/10/2014	4.90
10/14/2014		QuickBooks Payroll ...	Created by Payroll Service on 10/10/2014	5.00
10/14/2014		QuickBooks Payroll ...	Created by Payroll Service on 10/10/2014	3.38
10/14/2014		QuickBooks Payroll ...	Created by Payroll Service on 10/10/2014	319.67
10/30/2014		QuickBooks Payroll ...	Fee for 2 direct deposit(s) at \$1.60 each	3.20
10/30/2014		QuickBooks Payroll ...	Fee for 5 employee(s) paid	7.50
10/30/2014		QuickBooks Payroll ...	Created by Payroll Service on 10/29/2014	3.75
10/30/2014		QuickBooks Payroll ...	Created by Payroll Service on 10/29/2014	91.35
10/30/2014		QuickBooks Payroll ...	Created by Payroll Service on 10/29/2014	9.06
10/30/2014		QuickBooks Payroll ...	Created by Payroll Service on 10/29/2014	9.06
10/30/2014		QuickBooks Payroll ...	Created by Payroll Service on 10/29/2014	38.75
10/30/2014		QuickBooks Payroll ...	Created by Payroll Service on 10/29/2014	38.75
10/30/2014		QuickBooks Payroll ...	Created by Payroll Service on 10/29/2014	6.25
10/30/2014		QuickBooks Payroll ...	Created by Payroll Service on 10/29/2014	296.88
10/30/2014		QuickBooks Payroll ...	Fee for 10 direct deposit(s) at \$1.60 each	16.00
10/30/2014		QuickBooks Payroll ...	Fee for 11 employee(s) paid	16.50
10/30/2014		QuickBooks Payroll ...	Created by Payroll Service on 10/29/2014	1.81
10/30/2014		QuickBooks Payroll ...	Created by Payroll Service on 10/29/2014	4,267.00
10/30/2014		QuickBooks Payroll ...	Created by Payroll Service on 10/29/2014	486.11
10/30/2014		QuickBooks Payroll ...	Created by Payroll Service on 10/29/2014	486.11
10/30/2014		QuickBooks Payroll ...	Created by Payroll Service on 10/29/2014	18.69
10/30/2014		QuickBooks Payroll ...	Created by Payroll Service on 10/29/2014	18.69
10/30/2014		QuickBooks Payroll ...	Created by Payroll Service on 10/29/2014	1,433.60
10/30/2014		QuickBooks Payroll ...	Created by Payroll Service on 10/29/2014	214.37
10/30/2014		QuickBooks Payroll ...	Created by Payroll Service on 10/29/2014	23,513.19
10/30/2014		QuickBooks Payroll ...	Fee for 4 direct deposit(s) at \$1.60 each	6.40
10/30/2014		QuickBooks Payroll ...	Fee for 4 employee(s) paid	6.00
10/30/2014		QuickBooks Payroll ...	Created by Payroll Service on 10/29/2014	304.00
10/30/2014		QuickBooks Payroll ...	Created by Payroll Service on 10/29/2014	72.10
10/30/2014		QuickBooks Payroll ...	Created by Payroll Service on 10/29/2014	72.10
10/30/2014		QuickBooks Payroll ...	Created by Payroll Service on 10/29/2014	50.83
10/30/2014		QuickBooks Payroll ...	Created by Payroll Service on 10/29/2014	24.28
10/30/2014		QuickBooks Payroll ...	Created by Payroll Service on 10/29/2014	4,521.30
Total QuickBooks Payroll Service				67,266.53
SAND CITY				
10/14/2014	14535	SAND CITY	P.D. UNIT	100.00
10/14/2014	14536	SAND CITY	P.D. UNIT	100.00
Total SAND CITY				200.00
SHELL OIL COMPANY				
10/13/2014	14529	SHELL OIL COMPA...	FUEL AUG AND SEPT 2014	2,342.39
Total SHELL OIL COMPANY				2,342.39
SHRED-IT				
10/13/2014	14530	SHRED-IT	SERVICE DATE 8/30/14 INV. 9404083251	68.07
Total SHRED-IT				68.07
SPCA OF MONTEREY COUNTY				
10/13/2014	14531	SPCA OF MONTER...	AUG 2014 ANIMAL SERVICES	771.24
Total SPCA OF MONTEREY COUNTY				771.24
TERMINIX				
10/13/2014	14532	TERMINIX	6099531	65.00
Total TERMINIX				65.00
UNION BANK Charges				
10/31/2014	EFT10312014	UNION BANK Char...		1,736.65
Total UNION BANK Charges				1,736.65
VSP				
10/13/2014	14533	VSP	VISION SERVICE PLAN SEPT 2014	172.90

CITY OF DEL REY OAKS
Claims Report
October 2014

Date	Num	Name	Memo	Amount
Total VSP				172.90
WELLINGTON, ROBERT R.				
10/09/2014		WELLINGTON, RO...		14,108.98
Total WELLINGTON, ROBERT R.				14,108.98
YOUNG, MATT				
10/15/2014	14590	YOUNG, MATT	wellness	483.62
10/30/2014	14541	YOUNG, MATT	REIM. FOR PD VEHICLE EQUIPMENT	155.29
Total YOUNG, MATT				638.91
TOTAL				203,120.72

CITY OF DEL REY OAKS

Unpaid Bills Detail

All Transactions

Date	Name	Memo	Account	Class	Amount	Balance	Due Date
GOLDFARB & LIPMAN							
03/19/2013	GOLDFARB & LIPMAN	INV -107918- CURRENT FEES THROUGH 2/28/13	16020 · DUE FROM DEVELOPER (DUE FROM D...	General Gover...	25,042.49	25,042.49	03/29/2013
04/17/2013	GOLDFARB & LIPMAN	INV #108082-FEES THROUGH 3/31/13	16020 · DUE FROM DEVELOPER (DUE FROM D...	General Gover...	38,874.26	63,916.75	04/27/2013
11/18/2013	GOLDFARB & LIPMAN	INV - 110408-CURRENT FEES 10/1/13-10/31/13	16020 · DUE FROM DEVELOPER (DUE FROM D...	General Gover...	244.25	64,161.00	12/18/2013
12/16/2013	GOLDFARB & LIPMAN	INV - 110736-CURRENT FEE 11/21/13	16020 · DUE FROM DEVELOPER (DUE FROM D...	General Gover...	225.00	64,386.00	01/15/2014
12/16/2013	GOLDFARB & LIPMAN	INV - 110737-CURRENT FEES 11/1/13-11/30/13	16020 · DUE FROM DEVELOPER (DUE FROM D...	General Gover...	3,098.59	67,484.59	01/15/2014
02/19/2014	GOLDFARB & LIPMAN	INV - 111339-CURRENT FEES THROUGH 1/31/14	16020 · DUE FROM DEVELOPER (DUE FROM D...	General Gover...	1,850.00	69,334.59	03/21/2014
02/19/2014	GOLDFARB & LIPMAN	INV - 111390-CURRENT FEES THROUGH 1/31/14	16020 · DUE FROM DEVELOPER (DUE FROM D...	General Gover...	1,354.50	70,689.09	03/21/2014
03/18/2014	GOLDFARB & LIPMAN	INV 111623-CURRENT FEE THROUGH 2/28/14	16020 · DUE FROM DEVELOPER (DUE FROM D...	General Gover...	1,475.00	72,164.09	04/17/2014
04/14/2014	GOLDFARB & LIPMAN	INV 112024-CURRENT FEE THROUGH 3/31/14	16020 · DUE FROM DEVELOPER (DUE FROM D...	General Gover...	3,770.78	75,934.87	05/14/2014
05/19/2014	GOLDFARB & LIPMAN	INV 112325-CURRENT FEE THROUGH 4/30/14	16020 · DUE FROM DEVELOPER (DUE FROM D...	General Gover...	1,773.60	77,708.47	05/14/2014
05/19/2014	GOLDFARB & LIPMAN	INV 112326-CURRENT FEE THROUGH 4/30/14	16020 · DUE FROM DEVELOPER (DUE FROM D...	General Gover...	2,675.00	80,383.47	06/18/2014
06/19/2014	GOLDFARB & LIPMAN	INV 112700-CURRENT FEE THROUGH 5/31/14	16020 · DUE FROM DEVELOPER (DUE FROM D...	General Gover...	7,182.51	87,565.98	06/18/2014
06/19/2014	GOLDFARB & LIPMAN	INV 112699-CURRENT FEE THROUGH 5/31/14 (...)	16020 · DUE FROM DEVELOPER (DUE FROM D...	General Gover...	7,595.19	95,161.17	07/19/2014
07/15/2014	GOLDFARB & LIPMAN	INV 112876-CURRENT FEES THROUGH 6/30/14	16020 · DUE FROM DEVELOPER (DUE FROM D...	General Gover...	1,350.00	96,511.17	07/19/2014
08/19/2014	GOLDFARB & LIPMAN	INV 113221-CURRENT FEES THROUGH 7/31/14	16020 · DUE FROM DEVELOPER (DUE FROM D...	General Gover...	2,174.00	98,685.17	08/14/2014
08/19/2014	GOLDFARB & LIPMAN	INV 113222-CURRENT FEES THROUGH 7/31/14 ...	16020 · DUE FROM DEVELOPER (DUE FROM D...	General Gover...	2,253.08	100,938.25	09/18/2014
08/19/2014	GOLDFARB & LIPMAN	INV 113222-6- CURRENT FEES THROUGH 7/31/14...	16020 · DUE FROM DEVELOPER (DUE FROM D...	General Gover...	2,610.00	103,548.25	09/18/2014
	Total GOLDFARB & LIPMAN				103,600.25	103,600.25	
HAYASHI & WAYLAND, INC.							
10/08/2014	HAYASHI & WAYLAND, INC.	PROGRESS BILLING FOR AUDITING SERVICES	60625 · CONTRACTUAL AUDIT	General Gover...	2,869.00	2,869.00	11/07/2014
	Total HAYASHI & WAYLAND, INC.				2,869.00	2,869.00	
	TOTAL				106,469.25	106,469.25	

CITY OF DEL REY OAKS
FISCAL YEAR TO DATE 2014/2015 BUDGET VS. ACTUAL
 July through September 2014

	Jul - Sep 14	Budget	% of Budget
Income			
40100 · PROPERTY TAXES			
40110 · P/T-SECURED		350,000.00	
40120 · P/T-UNSECURED		13,500.00	
40130 · P/T-PRIOR SECURED		5,000.00	
40150 · P/T-UNITARY TAX		6,500.00	
40160 · P/T-SB813		6,000.00	
40170 · PROPERTY TAX - VLF		114,000.00	
40180 · P/T-INT/PENAL		200.00	
40190 · P/T - ADMINISTRATIVE FEE		(5,000.00)	
Total 40100 · PROPERTY TAXES		490,200.00	
40200 · OTHER TAXES			
40210 · SALES TAX	61,915.73	295,000.00	21%
40220 · SALES TAX - ADD ON	91,289.61	475,000.00	19%
40230 · SALES TAX IN LIEU - 3-FLIP		82,000.00	
40240 · COP MONIES	31,230.03	100,000.00	31%
40250 · PROPERTY TRANSFER TAX	0.27	4,500.00	0%
40260 · GAS FRANCHISES		4,500.00	
40265 · ELECTRIC FRANCHISES		17,000.00	
40270 · GARBAGE FRANCHISES	11,846.80	40,000.00	30%
40275 · CABLE TV FRANCHISES	6,356.07	30,000.00	21%
40280 · WATER FRANCHISES		13,000.00	
40290 · SEWER IMPACT		8,500.00	
Total 40200 · OTHER TAXES	202,638.51	1,069,500.00	19%
40300 · LICENSES & PERMITS			
40310 · BUSINESS LICENSES	163,022.74	185,000.00	88%
40320 · BUILDING PERMITS	7,801.46	18,000.00	43%
40330 · PLAN CHECK FEES	3,664.77	10,000.00	37%
40340 · STREET OPENING PERMITS FEES	780.00	2,000.00	39%
40350 · PLUMBING PERMITS	120.00	1,500.00	8%
40360 · ELECTRICAL PERMITS	120.00	1,000.00	12%
40380 · SB 1473 STATE SURCHG ON PERMITS	15.00		100%
40390 · OTHER LICENSES/PERMITS	211.05	600.00	35%
40300 · LICENSES & PERMITS - Other	120.00		
Total 40300 · LICENSES & PERMITS	175,855.02	218,100.00	81%
40500 · FINES & FORFEITURES			
40510 · VEHICLE CODE FINES	1,951.92	14,000.00	14%
Total 40500 · FINES & FORFEITURES	1,951.92	14,000.00	14%
40700 · OTHER AGENCY REVENUE			
40600 · INTEREST EARNED	85.26	100.00	85%
40710 · MOTOR VEHICLE LICENSE FEE(MVLF)		1,000.00	
40730 · HOPTR		1,200.00	
40740 · VEHICLE LICENSE COLLECTION		800.00	
40750 · PROP 172	2,109.34	10,000.00	21%
40760 · GRANTS	4,329.71	8,000.00	54%
40770 · TRAFFIC CONGESTION RELIEF-AB438		4,500.00	
40783 · GRANT OTHER AGENCIES	26,516.00		100%
Total 40700 · OTHER AGENCY REVENUE	33,040.31	25,600.00	129%
40800 · CURRENT SERVICES			
40805 · USE PERMITS	2,925.00	12,500.00	23%
40810 · MAPS/PUBLICATIONS		250.00	
40815 · RENTAL INCOME FORMER GOLF RANGE	1,050.00	5,000.00	21%
40820 · POLICE REPORTS	580.00	1,200.00	48%
40825 · PROPERTY INSPECTIONS	1,050.00	3,000.00	35%
40830 · POLICE SERVICES	3,900.00	6,000.00	65%
40835 · PUBLIC EVENTS	6,100.00	65,000.00	9%

CITY OF DEL REY OAKS
FISCAL YEAR TO DATE 2014/2015 BUDGET VS. ACTUAL
 July through September 2014

	Jul - Sep 14	Budget	% of Budget
40840 · MISCELLANEOUS SERVICES	2,451.19	6,500.00	38%
40845 · MISC REVENUE	1,350,970.83		100%
40850 · PD DONATIONS	1,000.00	5,000.00	20%
Total 40800 · CURRENT SERVICES	1,370,027.02	104,450.00	1312%
40900 · PARKS/RECREATION			
40910 · PARK RENTAL	1,410.00	5,200.00	27%
40920 · RV RENTAL PARKS	7,910.00	31,000.00	26%
Total 40900 · PARKS/RECREATION	9,320.00	36,200.00	26%
41000 · OTHER			
41010 · GAS TAX 2103	3,869.97	15,000.00	26%
41020 · GAS TAX 2105	1,582.53	6,000.00	26%
41030 · GAS TAX 2106	1,426.28	6,250.00	23%
41040 · GAS TAX 2107	2,183.94	9,000.00	24%
41050 · GAS TAX 2107.5	1,000.00	1,000.00	100%
Total 41000 · OTHER	10,062.72	37,250.00	27%
Total Income	1,802,895.50	1,995,300.00	90%
Expense			
60100 · PAYROLL & BENEFITS			
60105 · PAYROLL	243,434.42	780,000.00	31%
60110 · OVERTIME	2,002.58	15,000.00	13%
60115 · COUNCIL MEMBER STIPEND	1,500.00	6,000.00	25%
60120 · RESERVES PAYROLL	2,791.25	20,000.00	14%
60125 · PERS	37,579.09	165,000.00	23%
60130 · MEDICARE	3,845.52	13,000.00	30%
60135 · DENTAL EXPENSE	5,325.88	23,000.00	23%
60140 · HEALTH INS	36,954.45	160,000.00	23%
60145 · VISION INS	518.70	2,000.00	26%
60150 · WORKERS COMP	511.00	159,440.00	0%
60155 · WELLNESS PROGRAM	1,566.86	8,000.00	20%
60160 · UNIFORM ALLOWANCE	1,250.00	5,500.00	23%
60172 · GF PAYROLL/COPS GRANT	15,944.40		100%
60195 · Reimbursements - Exp (Reimbursements - Exp)	13.00		100%
Total 60100 · PAYROLL & BENEFITS	353,237.15	1,356,940.00	26%
60200 · PAYROLL EXPENSES	621.04	7,500.00	8%
60300 · BANK SERVICE CHARGES	469.02	2,500.00	19%
60400 · SUPPLIES			
60410 · MATERIALS/SUPPLY	9,523.60	17,500.00	54%
60430 · OFFICE SUPPLIES	2,307.11	15,000.00	15%
60440 · SPECIAL SUPPLY POLICE	11,858.34	40,000.00	30%
Total 60400 · SUPPLIES	23,689.05	72,500.00	33%
60500 · UTILITIES & SERVICES			
60505 · REPAIR/MAINTENANCE	3,044.31	30,000.00	10%
60510 · STREET SWEEPING	6,219.28	27,000.00	23%
60515 · GABILAN CREW		9,000.00	
60520 · UTILITIES/PGE	3,623.52	10,000.00	36%
60525 · UTILITIES/WATER	1,578.41	7,500.00	21%
60530 · TELEPHONE / INTERNET	2,795.38	9,000.00	31%
60535 · WEBSITE DESIGN & MAINTENANCE	2,734.00	500.00	547%
60540 · POSTAGE / SHIPPING	983.54	3,000.00	33%
60545 · TRAVEL/CONFERENCE	850.48	9,000.00	9%

CITY OF DEL REY OAKS
FISCAL YEAR TO DATE 2014/2015 BUDGET VS. ACTUAL
 July through September 2014

	Jul - Sep 14	Budget	% of Budget
60550 · MEMBER/DUES/CONTRIBUTIONS	2,488.00	52,000.00	5%
60555 · AD/PROMOTION CITY CNCL	375.00	7,500.00	5%
60560 · LEGAL ADVERT NON-DEPT	439.95	1,000.00	44%
60565 · BOOK/PERIODICAL	20.93	150.00	14%
60570 · MEETING CITY CNCL	478.87	1,000.00	48%
60575 · PRINTING / PUBLICATIONS	743.31		100%
60500 · UTILITIES & SERVICES - Other	36.39		100%
Total 60500 · UTILITIES & SERVICES	26,411.37	166,650.00	16%
60600 · OUTSIDE SERVICES			
60605 · TRAINING POLICE	300.00	12,000.00	3%
60610 · OTHER PERMITS PW/ENGR	300.00	5,000.00	6%
60620 · LIABILITY/PROP NON-DPT	48,118.22	38,045.00	126%
60625 · CONTRACTUAL AUDIT	18,023.65	30,000.00	60%
60635 · DATA PROCESSING	1,137.50	5,000.00	23%
60640 · CONTRACTUAL SVCS PLANNING	580.50	12,500.00	5%
60650 · CONTRACTUAL SVCS - LEGAL	3,407.10	25,000.00	14%
60655 · CONTRL RETAINER LEGAL	2,500.00	15,000.00	17%
60660 · JANITORIAL FUND	675.00	3,500.00	19%
60665 · RADIO DISPATCH POLICE	43,376.20	47,000.00	92%
60670 · COMM HUM SERV NON-DEPT		3,200.00	
Total 60600 · OUTSIDE SERVICES	118,418.17	196,245.00	60%
60700 · AUTO OPERATION			
60710 · AUTO OPS - SUPPLIES / EQUIP	50.20	1,000.00	5%
60720 · AUTO OPS - FUEL	7,295.96	22,000.00	33%
60730 · AUTO REPAIR/MAINTENANCE		9,000.00	
60740 · AUTO LEASE PAYMENTS	4,331.76	14,800.00	29%
Total 60700 · AUTO OPERATION	11,677.92	46,800.00	25%
60800 · POLICE AND FIRE			
60810 · FIRE SEASIDE	33,750.00	120,000.00	28%
60820 · ANIMAL REGULATION FIRE	2,029.80	3,500.00	58%
60830 · FUND JAIL & PRISONER	2,347.00	1,000.00	235%
60840 · ACJIS SYSTEM POLICE	1,018.23	4,000.00	25%
Total 60800 · POLICE AND FIRE	39,145.03	128,500.00	30%
60900 · STREETS & STORM WATER			
60910 · STREET LIGHTING	4,559.81	13,000.00	35%
60920 · STORM WATER PROJECT - PHASE 4	39.66	8,000.00	0%
60930 · S.M.I.P.	26.54	150.00	18%
60940 · SB 1473	15.30		100%
60900 · STREETS & STORM WATER - Other	435.89		
Total 60900 · STREETS & STORM WATER	5,077.20	21,150.00	24%
69800 · Uncategorized Expenses (Expenses not categorized elsewhere)	213.58		
70100 · MISC EXPENSES			
70110 · RECONCILIATION DISCREPENCIES	(65.00)		
Total 70100 · MISC EXPENSES	(65.00)		100%
Total Expense	578,894.53	1,998,785.00	29%
Total Revenue	\$1,802,895.50	\$1,995,300.00	90%
Total Expenditures	\$578,894.53	\$1,998,785.00	29%
Total Operating Revenue Less Expenditures this fiscal year to date	\$1,224,000.97	-\$3,485.00	61%

11:51 AM
 11/13/14
 Accrual Basis

CITY OF DEL REY OAKS

CASH BALANCES

As of October 31, 2014

			Oct 31, 14
ASSETS			
Current Assets			
Checking/Savings			
		10100 · GENERAL CHECKING	389,898.19
		10110 · LAIF CITY - 246	15,578.54
Total Checking/Savings			405,476.73
Total Current Assets			405,476.73
TOTAL ASSETS			405,476.73

CITY OF DEL REY OAKS
FISCAL YEAR TO DATE 2013/2014 BUDGET VS. ACTUAL
July through October 2013

		Jul - Oct 13	Budget	% of Budget
Income				
	40100 · PROPERTY TAXES			
	40110 · P/T-SECURED		335,000.00	
	40120 · P/T-UNSECURED		13,500.00	
	40130 · P/T-PRIOR SECURED		6,000.00	
	40150 · P/T-UNITARY TAX		6,100.00	
	40160 · P/T-SB813		5,000.00	
	40170 · PROPERTY TAX - VLF		112,000.00	
	40180 · P/T-INT/PENAL		200.00	
	40190 · P/T - ADMINISTRATIVE FEE		(5,000.00)	
	Total 40100 · PROPERTY TAXES		472,800.00	
	40700 · OTHER AGENCY REVENUE			
	40770 · TRAFFIC CONGESTION RELIEF-AB438		4,500.00	
	40710 · MOTOR VEHICLE LICENSE FEE(MVLF)		1,000.00	
	40730 · HOPTR		1,200.00	
	40740 · VEHICLE LICENSE COLLECTION		800.00	
	40760 · GRANTS		8,000.00	
	40600 · INTEREST EARNED	277.92	100.00	278%
	40750 · PROP 172	3,102.27	10,000.00	31%
	Total 40700 · OTHER AGENCY REVENUE	3,380.19	25,600.00	13%
	40500 · FINES & FORFEITURES			
	40510 · VEHICLE CODE FINES	4,308.11	14,000.00	31%
	Total 40500 · FINES & FORFEITURES	4,308.11	14,000.00	31%
	40900 · PARKS/RECREATION			
	40910 · PARK RENTAL	2,000.00	5,200.00	38%
	40920 · RV RENTAL PARKS	10,935.00	31,000.00	35%
	Total 40900 · PARKS/RECREATION	12,935.00	36,200.00	36%
	41000 · OTHER			
	41050 · GAS TAX 2107.5	1,000.00	1,000.00	100%
	41020 · GAS TAX 2105	1,921.70	6,000.00	32%
	41030 · GAS TAX 2106	2,126.80	6,250.00	34%
	41040 · GAS TAX 2107	3,151.08	9,000.00	35%
	41010 · GAS TAX 2103	5,735.74	15,000.00	38%
	Total 41000 · OTHER	13,935.32	37,250.00	37%
	40800 · CURRENT SERVICES			
	40810 · MAPS/PUBLICATIONS	9.20	250.00	4%
	40820 · POLICE REPORTS	280.00	1,200.00	23%
	40850 · PD DONATIONS	297.74	5,000.00	6%
	40830 · POLICE SERVICES	1,500.00	22,000.00	7%
	40825 · PROPERTY INSPECTIONS	1,650.00	3,000.00	55%
	40840 · MISCELLANEOUS SERVICES	1,670.81	22,000.00	8%

CITY OF DEL REY OAKS
FISCAL YEAR TO DATE 2013/2014 BUDGET VS. ACTUAL
July through October 2013

		Jul - Oct 13	Budget	% of Budget
	40815 · RENTAL INCOME FORMER GOLF RANGE (RENTAL INCOM	2,895.00	20,000.00	14%
	40805 · USE PERMITS	4,930.00	8,500.00	58%
	40835 · PUBLIC EVENTS	45,500.00	65,000.00	70%
	Total 40800 · CURRENT SERVICES	58,732.75	146,950.00	40%
	40300 · LICENSES & PERMITS			
	40380 · SB 1473 STATE SURCHG ON PERMITS	17.50		100%
	40390 · OTHER LICENSES/PERMITS	248.98	600.00	41%
	40350 · PLUMBING PERMITS	360.00	1,500.00	24%
	40360 · ELECTRICAL PERMITS	720.00	1,000.00	72%
	40340 · STREET OPENING PERMITS FEES	1,760.00	2,000.00	88%
	40330 · PLAN CHECK FEES	2,955.00	10,000.00	30%
	40320 · BUILDING PERMITS	8,684.42	18,000.00	48%
	40310 · BUSINESS LICENSES	182,074.83	185,000.00	98%
	Total 40300 · LICENSES & PERMITS	196,820.73	218,100.00	90%
	40200 · OTHER TAXES			
	40260 · GAS FRANCHISES		4,500.00	
	40280 · WATER FRANCHISES		12,000.00	
	40230 · SALES TAX IN LIEU - 3-FLIP		82,000.00	
	40265 · ELECTRIC FRANCHISES		17,000.00	
	40250 · PROPERTY TRANSFER TAX	2,684.82	4,500.00	60%
	40275 · CABLE TV FRANCHISES	6,107.97	25,000.00	24%
	40270 · GARBAGE FRANCHISES	7,217.94	40,000.00	18%
	40290 · SEWER IMPACT	11,370.83	8,500.00	134%
	40240 · COP MONIES	33,333.33	100,000.00	33%
	40210 · SALES TAX	76,040.05	285,000.00	27%
	40220 · SALES TAX - ADD ON	120,302.27	445,000.00	27%
	Total 40200 · OTHER TAXES	257,057.21	1,023,500.00	25%
	Total Income	547,169.31	1,974,400.00	28%
	Expense			
	60300 · BANK SERVICE CHARGES	820.53	2,000.00	41%
	60200 · PAYROLL EXPENSES	986.51	2,750.00	36%
	60700 · AUTO OPERATION			
	60740 · AUTO LEASE PAYMENTS	(187.64)	14,800.00	-1%
	60710 · AUTO OPS - SUPPLIES / EQUIP	117.75	1,000.00	12%
	60730 · AUTO REPAIR/MAINTENANCE	2,984.29	9,000.00	33%
	60720 · AUTO OPS - FUEL	8,203.87	27,500.00	30%
	Total 60700 · AUTO OPERATION	11,118.27	52,300.00	21%
	70100 · MISC EXPENSES			
	70100 · MISC EXPENSES - Other	(0.02)		
	70120 · UNCOLLECTABLE DEBT	11,648.10		100%
	Total 70100 · MISC EXPENSES	11,648.08		100%

CITY OF DEL REY OAKS
FISCAL YEAR TO DATE 2013/2014 BUDGET VS. ACTUAL
July through October 2013

		Jul - Oct 13	Budget	% of Budget
	60900 · STREETS & STORM WATER			
	60940 · SB 1473	14.40		100%
	60930 · S.M.I.P.	20.55	150.00	14%
	60910 · STREET LIGHTING	5,501.68	15,000.00	37%
	60920 · STORM WATER PROJECT - PHASE 4	8,114.28	8,000.00	101%
	Total 60900 · STREETS & STORM WATER	13,650.91	23,150.00	59%
	60400 · SUPPLIES			
	60430 · OFFICE SUPPLIES	3,766.89	10,000.00	38%
	60410 · MATERIALS/SUPPLY	5,769.52	15,000.00	38%
	60440 · SPECIAL SUPPLY POLICE	17,639.08	40,000.00	44%
	Total 60400 · SUPPLIES	27,175.49	65,000.00	42%
	60500 · UTILITIES & SERVICES			
	60570 · MEETING CITY CNCL		1,000.00	
	60565 · BOOK/PERIODICAL		150.00	
	60515 · GABILAN CREW		4,000.00	
	60560 · LEGAL ADVERT NON-DEPT		1,000.00	
	60535 · WEBSITE DESIGN & MAINTENANCE	285.00	500.00	57%
	60555 · AD/PROMOTION CITY CNCL	500.00	7,500.00	7%
	60540 · POSTAGE / SHIPPING	1,162.24	3,000.00	39%
	60525 · UTILITIES/WATER	1,620.72	7,500.00	22%
	60530 · TELEPHONE / INTERNET	3,536.38	9,000.00	39%
	60510 · STREET SWEEPING	3,971.52	27,000.00	15%
	60520 · UTILITIES/PGE	4,486.85	10,000.00	45%
	60545 · TRAVEL/CONFERENCE	5,819.29	5,000.00	116%
	60505 · REPAIR/MAINTENANCE	7,094.08	30,000.00	24%
	60550 · MEMBER/DUES/CONTRIBUTIONS	11,729.36	52,000.00	23%
	Total 60500 · UTILITIES & SERVICES	40,205.44	157,650.00	26%
	60800 · POLICE AND FIRE			
	60830 · FUND JAIL & PRISONER	40.00	1,000.00	4%
	60840 · ACJIS SYSTEM POLICE	1,574.14	4,000.00	39%
	60820 · ANIMAL REGULATION FIRE	2,439.60	3,000.00	81%
	60810 · FIRE SEASIDE	60,085.32	120,000.00	50%
	Total 60800 · POLICE AND FIRE	64,139.06	128,000.00	50%
	60600 · OUTSIDE SERVICES			
	60610 · OTHER PERMITS PW/ENGR	300.00	5,000.00	6%
	60660 · JANITORIAL FUND	975.00	3,500.00	28%
	60605 · TRAINING POLICE	1,425.00	5,000.00	29%
	60635 · DATA PROCESSING	3,031.78	3,500.00	87%
	60670 · COMM HUM SERV NON-DEPT	3,200.00	3,200.00	100%
	60655 · CONTRL RETAINER LEGAL	4,629.73	13,000.00	36%
	60640 · CONTRACTUAL SVCS PLANNING	5,546.31	12,500.00	44%
	60620 · LIABILITY/PROP NON-DPT	5,566.86	35,000.00	16%
	60625 · CONTRACTUAL AUDIT	10,259.30	25,000.00	41%
	60650 · CONTRACTUAL SVCS - LEGAL	19,443.75	30,000.00	65%
	60665 · RADIO DISPATCH POLICE	43,407.00	42,000.00	103%
	Total 60600 · OUTSIDE SERVICES	97,784.73	177,700.00	55%

CITY OF DEL REY OAKS
FISCAL YEAR TO DATE 2013/2014 BUDGET VS. ACTUAL
July through October 2013

		Jul - Oct 13	Budget	% of Budget
	60100 · PAYROLL & BENEFITS			
	60145 · VISION INS	649.92	2,000.00	32%
	60115 · COUNCIL MEMBER STIPEND	2,000.00	6,000.00	33%
	60155 · WELLNESS PROGRAM	2,539.39	5,500.00	46%
	60160 · UNIFORM ALLOWANCE	2,800.00	8,000.00	35%
	60130 · MEDICARE	4,664.47	13,000.00	36%
	60135 · DENTAL EXPENSE	7,110.64	20,000.00	36%
	60110 · OVERTIME	7,431.32	25,000.00	30%
	60172 · GF PAYROLL/COPS GRANT	7,728.60		
	60120 · RESERVES PAYROLL	10,629.11	23,356.00	46%
	60140 · HEALTH INS	49,034.38	170,000.00	29%
	60125 · PERS	50,566.63	154,296.00	33%
	60150 · WORKERS COMP	66,470.84	157,260.00	42%
	60105 · PAYROLL	294,188.73	730,000.00	40%
	Total 60100 · PAYROLL & BENEFITS	505,814.03	1,314,412.00	38%
	Total Expense	773,343.05	1,922,962.00	40%
	Total Revenue	547,169.31	1,974,400.00	28%
	Total Expenditures	773,343.05	1,922,962.00	40%
	Total Operating Revenue Less Expenditures this fiscal year to date	(226,173.74)	51,438.00	-13%

CITY OF DEL REY OAKS
CASH BALANCES
 As of October 31, 2013

			Oct 31, 13
ASSETS			
Current Assets			
Checking/Savings			
		10100 · GENERAL CHECKING	15,515.69
		10110 · LAIF CITY - 246	75,804.69
		10190 · DEV - BRANDENBURG	19,215.43
Total Checking/Savings			110,535.81
Total Current Assets			110,535.81
TOTAL ASSETS			110,535.81



FIRE DEPARTMENT

1635 Broadway Avenue
Seaside, CA 93955

Telephone (831) 899-6790

FAX (831) 899-6261

November 4, 2014

Chief Langford
Del Rey Oaks City Hall
650 Canyon Del Rey
Del Rey Oaks, CA 93940

Dear Chief Langford:

Enclosed is a copy of the response reports for the Seaside Fire Department response to Del Rey Oaks for the period of October 1, 2014 through October 31, 2014.

The Seaside Fire Department responded to the following incidents in the month of September:

<u>Incident #</u>	14-2116
14-2016	14-2126
14-2034	14-2131
14-2039	14-2159
14-2051	14-2161
14-2063	

There are a total of ten (10) fire calls for the month of October. If you have any questions, please contact me.

Sincerely,

Melissa Failauga
Office Assistant
CC: File



CITY OF DEL REY OAKS

650 CANYON DEL REY RD. • DEL REY OAKS, CALIFORNIA 93940
PHONE (831) 394-8511 • FAX (831) 394-6421

The Police Activity Report for October 2014 was not available at the time the Council packets were printed and will be provided the night of the meeting.

-Chief Langford

Chapter 4.00 Medical Cannabis Dispensaries, to be added to the Del Rey Oaks City Municipal Code

ORDINANCE NO. 279

ORDINANCE OF THE COUNCIL OF THE CITY OF DEL REY OAKS ADDING CHAPTER 4.00, TITLED MEDICAL CANNABIS DISPENSARIES, TO THE DEL REY OAKS CITY CODE

THE PEOPLE OF THE CITY OF DEL REY OAKS DO ENACT AS FOLLOWS:

Section 1. Chapter 4.00 entitled "Medical Cannabis Dispensaries," is added to the Del Rey Oaks City Code to read as follows:

CHAPTER 4.00 Medical Cannabis Dispensaries

4.01 Findings.

The City Council adopts this chapter based upon the following findings:

(A) The voters of the State of California approved proposition 215 (codified as Health and Safety Code Section 11362.5 et seq.) entitled "The Compassionate Use Act of 1996" (Act).

(B) The intent of Proposition 215 was to enable persons residing in the City of Del Rey Oaks and surrounding areas, who are in need of cannabis for medical purposes, to be able to obtain and use it without fear of criminal prosecution under limited, specified circumstances.

(C) The State enacted SB 420 in 2004, being sections 11362.7, et seq., of the Health and Safety Code, being identified as the Medical Cannabis Program, (Program), to clarify the scope of the Compassionate Use Act of 1996 and to allow cities and other governing bodies to adopt and enforce rules and regulations consistent with the Program

(D) To protect the public health, safety, and welfare, it is the desire of the City Council to modify the City Code consistent with the Program, regarding the location and operation of Medical Cannabis Dispensaries.

(E) It is the City Council's intention that nothing in this Chapter shall be deemed to conflict with federal law as contained in the Controlled Substances Act, 21 U.S.C. Section 841, to otherwise permit any activity that is lawfully and constitutionally prohibited under that Act.

(F) It is the City Council's intention that nothing in this chapter shall be construed to (1) allow persons to engage in conduct that endangers others or causes a public nuisance, (2) allow the use of cannabis for non-medical purposes, or (3) allow any activity relating to the cultivation, distribution, or consumption of cannabis that is otherwise illegal.

(G) Pursuant to California Health and Safety Code Section 11362.71 et seq., the State Department of Health through the state's counties, is to be responsible for establishing and maintaining a voluntary medical cannabis identification card program for qualified patients and primary caregivers.

(H) California Health and Safety Code Section 11362.71(b) requires every county health department, or its designee, to implement a procedure to accept and process applications from those seeking to join the identification program in the matters set forth in Section 11362.71 et seq. (I) This ordinance is hereby found to be categorically exempt from environmental review pursuant to CEQA Guidelines Section 15061(b) (3) in that the Council finds and determines that there is nothing in this ordinance or its implementation that

Chapter 4.00 Medical Cannabis Dispensaries - Continued

could foreseeably have any significant effect on the environment.

4.02 Purpose and Intent

It is the purpose and intent of this chapter to regulate Medical Cannabis Dispensaries in order to promote the health, safety, morals, and general welfare of residents and businesses within the City. It is neither the intent nor the effect of this chapter to condone or legitimize the use of cannabis.

4.03 Definitions.

For the purpose of this chapter, the following words and phrases shall mean:

- (A) "Applicant" means a person who is required to file an application for a permit under this chapter, including an individual owner, managing partner, officer of a corporation, or any other operator, manager, employee, or agent of a dispensary.
- (B) "City" means the City of Del Rey Oaks.
- (C) "City Manager" means the City Manager of the City of Del Rey Oaks or the authorized representative thereof
- (D) "Drug paraphernalia" shall have the same definition as California Health and Safety Code Section 11362.5, and as may be amended.
- (E) "Identification card" shall have the same definition as California Health and Safety Code Section 11362.5 et seq., and as maybe amended.
- (F) "Medical cannabis dispensing collective," hereinafter "dispensary," shall be construed to include any association, cooperative, affiliation, or collective of persons where multiple "qualified patients" and/or "primary care givers," are organized to provide education, referral, or network services, and facilitation or assistance in the lawful, "retail" distribution of medical cannabis. "Dispensary" means any facility or location where the primary purpose is to dispense medical cannabis (ie., marijuana) as a medication that has been recommended by a physician and where medical cannabis is made available to and/or distributed by or to two or more of the following: a primary caregiver and/or a qualified patient, in strict accordance with California Health and Safety Code Section 11362.5 et seq. A "dispensary" shall not include dispensing by primary caregivers to qualified patients in the following locations and uses, as long as the location of such uses are otherwise regulated by this Code or applicable law: a clinic licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code, a health care facility licensed pursuant to Chapter 2 of Division 2 of the Health and Safety Code, a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the Health and Safety Code, residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code, a residential hospice, or a home health agency licensed pursuant to Chapter 8 of Division 2 of the Health and Safety Code, as long as any such use complies strictly with applicable law including, but not limited to, Health and Safety Code Section 11362.5 et seq., or a qualified patient's or caregiver's place of residence.
- (G) "Moral turpitude" means "act of baseness, vileness, or depravity in the private and social duties which a man owes to his fellowmen, or to society in general, contrary to the accepted and customary rule of right and duty between man and man."
- (H) "Permittee" means the person (A) to whom a dispensary permit is issued and (B) who is identified in California Health and Safety Code Section 11362.7, subdivision (c) or (d), or (e), or (f).
- (I) "Person" means any individual, partnership, co-partnership, firm, association, joint stock company, corporation, limited liability company or combination of the above in whatever form or character.

Chapter 4.00 Medical Cannabis Dispensaries - Continued

(J) "Person with an identification card" shall have the same definition as set forth in California Health and Safety Code sections 11362.5 et seq., and as they may be amended from time to time.

(K) "Primary caregiver" shall have the same definition as set forth in California Health and Safety Code Section 11362.5 et seq., and as may be amended.

(L) "Qualified patient" shall have the same definition as set forth California Health and Safety Code sections 11362.5 et seq., and as they may be amended from time to time.

(M) "School" means an institution of learning for minors, whether public or private, offering a regular course of instruction required by the California Education Code, or any child. This definition includes an elementary school, middle or junior high school, senior high school, or any special institution of education, but it does not include a vocational or professional institution of higher education, or any other college or university.

(N) "Youth-Oriented Facility" shall mean elementary school, middle school, high school, public park, and any establishment that advertises in a manner that identifies the establishment as catering to or providing services primarily intended for minors, or; the individuals who regularly patronize, congregate or assemble at the establishment are predominantly minors. This shall not include a daycare or preschool facility that provides supervision of 8 or fewer minor children, or children under 10 years of age.

4.04 Dispensary Permit Required to Operate.

It shall be unlawful for any person to engage in, conduct or carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises in the City the operation of a dispensary unless the person first obtains and continues to maintain in full force and effect a dispensary permit from the City as herein required.

4.05 Annual Term of Permits and Renewals Required.

(A) Permits issued under this chapter shall expire one (1) year following the date of their issuance.

(B) Permits may be renewed by the City Manager for additional one (1) year periods upon application by the permittee, unless the permit is suspended or revoked in accordance with the provisions of this chapter.

(C) Applications for renewal shall be made at least forty-five (45) days before the annual expiration date of the permit and shall be accompanied by the nonrefundable application fee referenced herein. Applications for renewal shall be acted on as provided herein for action upon applications for permits.

(D) Applications for renewal made less than forty-five (45) days before the annual expiration date shall not stay the annual expiration date of the permit.

(E) Permits may be revoked or suspended by the City Manager at any time, as provided in this chapter and City Code.

4.06 General Tax Liability.

An operator of a dispensary shall also be required to apply for and obtain a general City tax certificate or exemption as a prerequisite to obtaining a permit pursuant to the terms hereof as required by the State Board of Equalization and to pay any special City tax as enacted by the City Council.

4.07 Imposition of Fees.

Every application for a permit or renewal shall be accompanied by a nonrefundable fee of \$5,000 (Five Thousand Dollars). This application or renewal fee shall not include fingerprinting, photographing, and background check costs and shall be in addition to any other business license fee or permit fee imposed by this code or other governmental agencies. Fingerprinting, photographing, and background check fees are \$500 per person. Such

Chapter 4.00 Medical Cannabis Dispensaries - Continued

Fees will become part of the Fee Schedule adopted annually by the City Council.

4.08 Limitations on Number Dispensaries.

(A) The City may not grant or cause to be granted more than one (1) permit for a Medical Cannabis Dispensary in compliance with the provisions of this chapter. The City reserves the right to limit the number of patients who utilize the dispensary to alleviate traffic, nuisance and other issues of concern, should they occur.

4.09 Limitation on Location of Dispensary.

(A) A dispensary may only be located within commercial and industrial designated areas, ie., General Plan and zoning districts.

(B) A dispensary shall be in a highly visible location that provides good views of the dispensary entrance, windows and premises from the public street.

(C) A dispensary shall not be allowed in the following areas at the time of its permitted establishment:

- (1) Within 600-feet of a "youth-oriented facility," a "school," a smoke-shop which sells paraphernalia for consuming drug or tobacco products, or another dispensary, or
- (2) Within any residential zoned parcel or primary land use, or any property with an underlying "residential" General Plan land use designation.

(D) A waiver of the provisions in Subsection C above may be granted if the applicant demonstrates on plans and materials presented for review and the Planning Commission determines that a physical barrier or similar condition exists which achieves the same purpose and intent as the distance separation requirements established herein.

4.10 Operating Requirements.

Dispensary operations shall be established and managed only in compliance with the following standards:

(A) **Criminal History.** Any applicant, his or her agent or employees, or any person exercising managerial authority of a dispensary on behalf of the applicant shall not have been convicted of a felony, or of a misdemeanor involving moral turpitude, or engaged in misconduct related to the qualifications, functions or duties of a permittee.

(B) **Minors.**

- (1) It shall be unlawful for any permittee, operator, or other person in charge of any dispensary to employ any person who is not at least eighteen (18) years of age.
- (2) Persons under the age of eighteen (18) shall not be allowed on the premises of a dispensary unless they are a qualified patient or a primary caregiver and they are in the presence of their parent or guardian.
- (3) The entrance to a dispensary shall be clearly and legibly posted with a notice indicating that person under the age of eighteen (18) are precluded from entering the premises unless they are a qualified patient or a primary caregiver and they are in the presence of their parent or guardian.

(C) **Operating Hours of Operation.** A dispensary shall only be operated during the days and hours as conditioned by the Planning Commission.

(D) **Dispensary Size and Access.**

Chapter 4.00 Medical Cannabis Dispensaries - Continued

- (1) Dispensary size shall be limited, as deemed appropriate and necessary, to best serve patient needs within the intent of this chapter and reduce potential adverse impacts that might otherwise occur on surrounding neighborhoods, businesses and demands on City services.
- (2) A dispensary shall not be increased in size (ie., floor area utilized for Dispensary Operations) without prior approval from the City Manager to amend the existing dispensary permit.
- (3) The entrance into the dispensary building shall be locked at all times with entry strictly controlled; e.g., a "buzz-in"¹¹ electronic/mechanical entry system. A viewer shall be installed in the door that allows maximum angle of view of the exterior entrance.
- (4) Security personnel shall be employed to monitor site activity, control loitering and site access and to serve as a visual deterrent to unlawful activities.
- (5) Only dispensary staff; primary caregivers, qualified patients and persons with bona-fide purposes for visiting the site shall be permitted at a dispensary.
- (6) Potential patients or caregivers shall not visit a dispensary without first having obtained a valid written recommendation from their physician recommending use of Medical Cannabis.
- (7) Only a primary caregiver and qualified patient shall be permitted in the designated dispensing area with dispensary personnel. All other authorized visitors shall remain in the designated waiting area in the front entrance/lobby.
- (8) Restrooms shall remain locked and under the control of management.

(E) **Dispensary Supply.** A dispensary may possess no more than eight (8) ounces of dried cannabis per qualified patient or primary caregiver, and maintain no more than six (6) mature or twelve (12) immature cannabis plants per qualified patient or primary caregiver. However, if a qualified patient or primary caregiver has a physician's recommendation that this quantity does not meet the qualified patient's medical needs, the dispensary may possess an amount of cannabis consistent with the patient's needs.

(F) **Dispensing Operations.**

- (1) A dispensary shall dispense medical cannabis to meet monthly medication needs of qualified patients, similar to typical pharmacy operations. The dispensary shall strongly discourage and avoid daily or weekly visits by patients as a routine practice.
- (2) There shall not be a physician located at the dispensary who evaluates patients prior to issuance of a Medical Cannabis Card.
- (3) A dispensary shall only dispense to qualified patients or caregivers with a currently valid physicians approval or recommendation in compliance with the criteria in California Health and Safety Code sections 11362.5. et seq.
- (4) Prior to dispensing Medical Cannabis, the dispensary shall obtain verification from the recommending Physician that the individual requesting Medical Cannabis is a qualified patient.
- (5) Patient records shall be maintained on-site and verified as needed, and at least every 6 months with the qualifying patient's physician or Doctor of Osteopathy.
- (6) Information on prior years' operations shall be provided annually, as required in this chapter. The operator shall adjust the operations as necessary to address any identified issues.

(G) Consumption Restrictions.

- (1) Cannabis shall not be consumed on the premises of the dispensary nor anywhere else within the City Limits of Del Rey Oaks other than within private residences.
- (2) Dispensary operations shall not result in illegal redistribution of medical cannabis obtained from the dispensary, or use in any manner that violates local, state or City Codes.

(H) Retail Sales and Cultivation Prohibited.

- (1) No cannabis shall be cultivated on the premises of the dispensary, except in compliance with Health and Safety Code 11362.5. et seq.
- (2) A dispensary shall not cultivate, distribute or sell medical cannabis for a profit.
- (3) A dispensary shall not pay any suppliers of medical cannabis more than the costs incurred for cultivation and preparation.
- (4) A dispensary shall meet all the operating criteria for the dispensing of medical cannabis as is required pursuant to California Health and Safety Code sections 11362.5. et seq.

(I) Operating Plans.

- (1) Floor plan. A dispensary shall have a lobby "waiting area" at the entrance to receive clients, and a separate and secure designated area for Dispensing Medical Cannabis to qualified patients or designated caregivers. The primary entrance shall be located and maintained clear of barriers, landscaping and similar obstructions so that it is clearly visible from public streets, sidewalks or site driveways.
- (2) Storage. A dispensary shall have a suitable locked safe on premises, identified as a part of the security plan, for after-hours storage of Medical Cannabis.
- (3) Minimum staffing levels. The premises shall be staffed with at least one person, during hours of operation, who is not responsible for dispensing medical cannabis.
- (4) Odor control. A dispensary shall have an air treatment system that ensures off-site odors shall not result.
- (5) Security plans. A dispensary shall provide adequate security on the premises, as approved by the City Manager, including lighting and alarms, to insure the safety of persons and to protect the premises from theft.
- (6) Security cameras. Security surveillance cameras shall be installed to monitor the main entrance and exterior of the premises to discourage loitering, crime, illegal or nuisance activities.
- (7) Security video retention. Security video shall be maintained for a minimum of 45 days.
- (8) Alarm system. A professionally monitored robbery alarm system shall be installed and maintained in good working condition.
- (9) Emergency contact. A dispensary shall provide the City Manager with the name, phone number and cellular phone number of an on-site community relations staff person to whom one can provide notice if there are operating problems associated with the dispensary. The dispensary shall make every good faith effort to encourage neighborhood residents to call this person to try to solve operating problems, if any, before any calls or complaints are made to the City.

(J) Signage and Notices.

- (1) The building entrance to a dispensary shall be clearly and legibly posted with a notice indicating that smoking, ingesting or consuming cannabis on the premises or in the vicinity of the dispensary is prohibited.
- (2) Signs on the premises shall not obstruct the entrance or windows.
- (3) Address identification shall comply with City and Fire Department Standards.
- (4) Business identification signage shall be limited to that needed for identification only. Signs shall comply with all ordinances and not contain any logos or information that identifies, advertises or lists the services offered.

(K) Employee Records. Each owner or operator of a dispensary shall maintain a current register of the names of all employees currently employed by the dispensary, and shall disclose such registration for inspection by any City officer or official for purposes of determining compliance with the requirements of this section.

(L) Patient Records. A dispensary shall maintain records of all patients and primary caregivers using only the identification card number issued by the county, or its agent, pursuant to California Health and Safety Code Section 11362.71 et seq., as a protection of the confidentiality of the cardholders, or a copy of the written recommendation from a physician or Doctor of Osteopathy stating the need for medical cannabis.

(M) Staff Training. Dispensary staff shall receive appropriate training for their intended duties to ensure understanding of rules and procedures regarding dispensing in compliance with state and local law, and properly trained or professionally-hired security personnel.

(N) Site Management.

- (1) The operator of the establishment shall take all reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks, alleys and areas surrounding the premises and adjacent properties during business hours if directly related to the patrons of the subject dispensary.
 - (a) "Reasonable steps" shall include calling the police in a timely manner; and requesting those engaging in objectionable activities to cease those activities, unless personal safety would be threatened in making the request.
 - (b) "Nuisance" includes but is not limited to disturbances of peace, open public consumption of cannabis or alcohol, excessive pedestrian or vehicular traffic, illegal drug activity, harassment of passerby, excessive littering, excessive loitering, illegal parking, loud noises, especially late at night or early in the morning hours, lewd conduct or police detentions and arrests.
- (2) The operator shall take all reasonable steps to reduce loitering in public areas, sidewalks, alleys and areas surrounding the premises and adjacent properties during business hours.
- (3) The operator shall ensure that the hours of operation shall not be a detriment to the surrounding area.
- (4) The operator shall provide patients with a list of the rules and regulations governing medical cannabis use and consumption within the City and recommendations on sensible cannabis etiquette.

(O) **Trash, Litter, Graffiti**

(1) The operator shall clear the sidewalks adjoining the premises plus 10 feet beyond property lines along the street as well as any parking lots under the control of the operator as needed to control litter, debris and trash.

(2) The operator shall remove all graffiti from the premises and parking lots under the control of the operator within 48 hours of its application

(P) **Compliance with Other Requirements.** The operator shall comply with all provisions of all local and state laws, regulations or orders, as well as any condition imposed on any permits issued pursuant to applicable laws, regulations or orders.

(Q) **Confidentiality.** The information provided for purposes of this section shall be maintained by the City Manager as confidential information, and shall not be disclosed as public records unless pursuant to subpoena issued by a court of competent jurisdiction.

(R) **Display of Permit.** The dispensary shall display, at all times during business hours, the permit issued pursuant to the provisions of this chapter for such dispensary in a conspicuous place so that the same may be readily seen by all persons entering the dispensary.

(S) **Reporting and Payment of Fees.** Each permittee shall file a sworn statement with the City Manager indicating the number of patients served by the dispensary within the previous calendar year, and pay all annual permit fees.

4.11 Application Preparation and Filing.

Application Filing. A complete application submittal packet shall be submitted including all necessary fees and all other information and materials required by the City and this chapter. All applications for permits shall be filed with the City Manager, using forms provided by the City. It is the responsibility of the applicant to provide information required for approval of the permit. The application shall be made under penalty of perjury.

(A) **Eligibility for Filing.** Applications may only be filed by the owner of the subject property, or person with a lease signed by the owner or duly authorized agent allowing them to occupy the property for the intended use.

(B) **Filing Date.** The filing date of any application shall be the date when the City receives the last submission of information or materials required in compliance with the submittal requirements specified herein.

(C) **Effect of Incomplete Filing.** Upon notification that an application submittal is incomplete, the applicant shall be granted an extension of time to submit all materials required to complete the application within ten (10) days. If the application remains incomplete in excess of ten (10) days the application shall be deemed withdrawn and new application submittal shall be required in order to proceed with the subject request. The time period for granting or denying a permit shall be stayed during the period in which the applicant is granted an extension of time.

(D) **Effect of Other Permits or Licenses.** The fact that an applicant possesses other types of state or City permits or licenses does not exempt the applicant from the requirement of obtaining a dispensary permit.

(E) **Submittal Requirements.** Any application for a permit shall include the following information:

- (1) Applicants name. The full name (including any current or prior aliases, or other legal names the applicant is or has been known by, including maiden names), present address, and telephone number of the applicant;
- (2) Applicants mailing address. The address to which notice of action on the application is to be mailed;
- (3) Previous addresses. Previous addresses for the past five years immediately prior to the present address of the applicant;
- (4) Verification of age. Written proof that the applicant is over the age of eighteen (18) years of age;
- (5) Physical description. Applicant's height, weight, color of eyes and hair;
- (6) Photographs. Passport quality photographs for identification purposes;
- (7) Employment history. All business, occupation, or employment of the applicant for the five years immediately preceding the date of the application;
- (8) Tax history. The dispensary business tax history of the applicant, including whether such person, in previously operating in this or another city, county or state under license has had a business license revoked or suspended, the reason therefore, and the business or activity or occupation subsequent to such action of suspension or revocation;
- (9) Management information. The name or names and addresses of the person or persons having the responsibility for management or supervision of applicant's business;
- (10) Criminal background. A background investigation verifying whether the person or persons having the management or supervision of applicant's business has been convicted of a crime(s), the nature of such offense(s), and the sentence(s) received therefore;
- (11) Employee information. Number of employees, volunteers, and other persons who will work at the dispensary;
- (12) Statement of dispensary need. A statement and/or information to establish the need for the additional dispensary to serve qualified patients in the area;
- (13) Plan of Operations. A plan of operations describing how the dispensary will operate consistent with the intent of state law and the provisions of this ordinance, including but not limited to:
 - (a) Ensuring cannabis is not purchased or sold by the dispensary in a manner that would generate a profit. Any profits generated must be returned to the community of Del Rey Oaks to distribute to qualified 501(3)c organizations, including those with a goal of preventing youth drug abuse.
 - (b) Controls that will assure medical cannabis will be dispensed to qualifying patients or caregivers only.
 - (c) Controls that will ensure that the limitations on numbers of patients is adhered to.
 - (d) Controls that will ensure access to dispensary premises is adequately monitored and restricted to pre-approved qualified patients and caregivers.
 - (e) Method for ensuring that a qualified patient's physician is not recommending cannabis for less than medically appropriate reasons.
- (14) Written Project Description. A written description summarizing the proposed dispensary use size, number of patients, characteristics and intent.

Chapter 4.00 Medical Cannabis Dispensaries - Continued

- (15) Written response to dispensary standards. The applicant shall provide a comprehensive written response identifying how the dispensary plan complies with each of the standards for review in this chapter, specifically the Limitation on Number and Size, Limitation on Location, and Operating Requirements sections.
- (16) Written response to Criteria for Review section. The applicant shall provide a written response indicating how each of the criteria for review has been satisfied.
- (17) Security plan. A detailed security plan outlining the proposed security arrangements for insuring the safety of persons and to protect the premises from theft. The plan shall include installation of security cameras, a robbery alarm system monitored by a licensed operator, and a security assessment of the site conducted by a qualified professional;
- (18) Floor plan. A sketch or diagram showing the interior configuration of the premises, including a statement of the total floor area occupied by the dispensary. The sketch or diagram need not be professionally prepared, but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus one (1) foot;
- (19) Site plan. A sketch or diagram showing exterior configuration of the premises, including the outline of all structures, parking and landscape areas, and property boundaries. The sketch or diagram need not be professionally prepared, but must be drawn to a designated scale or drawn with marked dimensions to an accuracy of plus or minus one (1) foot;
- (20) Neighborhood context map. An accurate straight-line drawing depicting the building and the portion thereof to be occupied by the dispensary, all properties and uses within 300 feet of the boundaries of the property on which the dispensary permit is requested, and the property lines of any school, park, or residential zone or use within 300 feet of the primary entrance of the dispensary;
- (21) Lighting plan. A lighting plan showing existing and proposed exterior premise and interior lighting levels that would be the minimum necessary to provide adequate security lighting for the use;
- (22) City authorization. Written authorization for the City, its agents and employees to seek verification of the information contained within the application;
- (23) Statement of owners consent. A statement in writing by the applicant that he or she certifies under penalty of perjury that the applicant has the consent of the Property Owner and Landlord to operate a dispensary at the location (if applicable);
- (24) Applicant's certification. A statement in writing by the applicant that he or she certifies under penalty of perjury that all the information contained in the application is true and correct.
- (25) Other information. Such other identification and information as deemed necessary by the City Manager to demonstrate compliance with this chapter and City Codes, including operating requirements established herein;

(F) **Annual Renewal.** Applications for annual renewal shall be submitted to the City Manager and accompanied by the following information:

- (1) The operator shall report the number of patients served and pay applicable fees, as required by this chapter.
- (2) The operator shall provide a detailed description of any adjustments and changes proposed or that have occurred in dispensary operations to address issues, or comply with laws.
- (3) The operator shall identify any problems encountered during operations and how they have been

addressed.

(4) The operator shall identify how the dispensary has managed its operations to comply with the Operating requirements of this chapter and with state law.

4.12 Criteria for Review.

The review authority shall consider the following criteria in determining whether to grant or deny a dispensary permit, and annual renewals:

- (A) That the dispensary permit is consistent with the intent of Proposition 215 and related state law, the provisions of this chapter and the City Code, including the Application submittal and Operating requirements herein.
- (B) That an applicant or employee is not under eighteen (18) years of age.
- (C) That all required application materials have been provided and/or the dispensary has operated successfully in a manner that shows it would comply with the Operating Requirements and standards specified in this chapter.
- (D) That all required application or annual renewal fees have been paid and reporting requirements have been satisfied in a timely manner.
- (E) That an appropriate limit on size of the dispensary has been established and the requested permit would not exceed limitations on number of patients and/or permits allowed by this chapter.
- (F) That issuance of a dispensary permit for the size requested is justified to meet needs of area residents.
- (G) That issuance of the dispensary permit would serve needs of area residents at this location.
- (H) That the location is not prohibited by the provisions of this chapter or any local or state law, statute, rule or regulation and no significant nuisance issues or problems are anticipated.
- (I) That the site plan, floor plan, and security plan have incorporated features necessary to assist in reducing potential crime-related problems and as specified in the Operating Requirements section. These features may include, but are not limited to, security on-site; procedure for allowing entry, openness to surveillance and control of the premises; the perimeter, and surrounding properties; reduction of opportunities for congregating and obstructing public ways and neighboring property; illumination of exterior areas; and limiting furnishings and features that encourage loitering and nuisance behavior.
- (J) That no dispensary use, owner, permittee, agent, or employee has violated any provision of this chapter including grounds for suspension, modification or revocation of a permit.
- (K) That all reasonable measures have been incorporated into the plan and/or consistently taken to successfully control the establishment's patrons' conduct resulting in disturbances, vandalism, crowd control inside or outside the premises, traffic control problems, ingesting cannabis in public, or creation of a public or private nuisance, or interference of the operation of another business.
- (L) That the dispensary would not adversely affect the health, peace or safety of persons living or working in the surrounding area, overly burden a specific neighborhood with special needs or high impact uses, or contribute to a public nuisance; or that the dispensary has resulted in repeated nuisance activities including disturbances of the peace, illegal drug activity, ingesting cannabis in public, harassment of passerby, excessive littering, excessive loitering, illegal parking, excessive loud noises, especially late at night or early in the morning hours, lewd conduct, or police detentions or arrests.
- (M) That any provision of the City Code or condition imposed by a City issued permit, or any provision of any other local or State law, regulation, or order, or any condition imposed by permits issues in compliance

Chapter 4.00 Medical Cannabis Dispensaries - Continued

with those laws has not been violated.

(N) That the applicant has not violated any local or state law, statute, rule or regulation respecting the distribution, possession, or consumption of cannabis.

(O) That the applicant has not knowingly made a false statement of material fact or has knowingly omitted to state a material fact in the application for a permit.

(P) That the applicant, his or her agent or employees, or any person who is exercising managerial authority on behalf of the applicant has not been convicted of a felony, or of a misdemeanor involving moral turpitude, or has engaged in misconduct related to the qualifications, functions or duties of a permittee. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.

(Q) That the applicant has not engaged in unlawful, fraudulent, unfair, or deceptive business acts or practices.

(R) That Criminal statistics be taken into account when proposing to locate a dispensary.

4.13 Investigation and Action on Application.

After the making and filing of a complete application for the dispensary permit and the payment of the fees, the City Manager shall conduct a background check of the applicant and all employees and conduct an investigation of the application, and forward the application and staff report to the Planning Commission.

(A) The Planning Commission shall either grant or deny the application in accordance with the provisions of this chapter.

(B) In approving a dispensary permit, the Planning Commission may impose conditions, restrictions or require revisions to the proposal to comply with the purpose and intent of this chapter.

(C) The Planning Commission shall cause a written notice of a decision to issue or deny a permit to be mailed to the applicant by U.S. mail via the City Manager.

(D) Notwithstanding the provisions of this Section, the City Manager, in his or her discretion, may refer an application for a permit to the City Council.

4.14 Appeal from Planning Commission Determination.

(A) An applicant, aggrieved by the Planning Commission's decision to issue or deny a permit, may appeal such decision to the City Council by filing a written notice stating all grounds on which the appeal is based and paying applicable appeal fee with the City Clerk within ten (10) working days of the written notice of decision. If an appeal is not taken within such time, the Planning Commission's decision shall be final.

(B) The City Council shall consider the appeal within 30 days of the date of filing the appeal. The City Clerk shall give 10 days notice to the person filing the appeal of the time and place of the meeting scheduled on the appeal by serving notice personally or by depositing it in the United States Post Office at Seaside, California, postage prepaid, addressed as shown on the appeal papers. The Council shall have the authority to determine all questions raised on such appeal. No such determination shall conflict with any substantive provision of this chapter.

4.15 Effect of Denial.

When the Planning Commission shall have denied or revoked any permit provided for in this Chapter and the time for appeal to the Council shall have elapsed, or, if after appeal to the Council, the decision of the Planning Commission has been affirmed by the Council, no new application for a permit shall be accepted from the applicant and no such permit shall be issued to such person or to any corporation in which he shall have any beneficial

Chapter 4.00 Medical Cannabis Dispensaries - Continued

interest for a period of three years after the action denying or revoking the permit.

4.16 Suspension and Revocation

(A) The Permit may be revoked if the dispensary is operated in a manner that violates the provisions of this chapter, including the Criteria for Review and Operating Requirements sections, or conflicts with state law.

(B) Except as otherwise provided in this chapter, no permit shall be revoked or suspended by virtue of this section until written notice of the intent to consider revocation or suspension of the permit has been served upon the person to whom the permit was granted at least five (5) days prior to the date set for such review. Such notice shall contain a brief statement of the grounds to be relied upon for revoking or suspending such permit. Notice may be given either by personal delivery to the person to be notified, or by depositing it in the U.S. mail in a sealed envelope, postage prepaid, return receipt requested, addressed to the person to be notified at his/her address as it appears in his/her application for a permit.

(C) If any person holding a permit or acting under the authority of such permit under this article is convicted of a public offense in any court for the violation of any law which relates to his or her permit, the City Manager may revoke said permit forthwith without any further action thereof; other than giving notice of revocation to the permittee.

4.17 Transfer of Permits

(A) A permittee shall not operate a dispensary under the authority of a dispensary permit at any place other than the address of the dispensary stated in the application for the permit.

(B) A permittee shall not transfer ownership or control of a dispensary or transfer a dispensary permit to another person unless and until the transferee obtains an amendment to the permit from the City Manager stating that the transferee is now the permittee. Such an amendment may be obtained only if the transferee files an application with the City Manager in accordance with this all provisions of this Chapter accompanied by a transfer fee in an amount set by resolution of the City Council, and the City Manager determines in accordance this chapter that the transferee would be entitled to the issuance of an original permit.

(C) No permit may be transferred when the City Manager has notified the permittee that the permit has been or may be suspended or revoked.

(D) Any attempt to transfer a permit either directly or indirectly in violation of this section is hereby declared void, and the permit shall be deemed revoked.

4.18 Violations.

(A) It is unlawful for any person, individual, partnership, co-partnership, firm, association, joint stock company, corporation, limited liability company or combination of the above in whatever form or character to violate any provision or not to comply with any of the requirements of this ordinance.

(B) A violation of this chapter shall be punished in accordance with City Code.

4.19 Remedies Cumulative.

All remedies prescribed under this chapter shall be cumulative and 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 hereof

Chapter 4.00 Medical Cannabis Dispensaries - Continued

4.20 Separate Offense for Each Day.

Any person that violates any provision of this chapter shall be guilty of a separate offense for each and every day during any portion of which any such person commits, continues, permits, or causes a violation thereof and shall be penalized accordingly.

4.21 Public Nuisance.

Any use or condition caused or permitted to exist in violation of any of the provisions of this chapter shall be and is hereby declared a public nuisance and may be summarily abated by the City.

4.22 Criminal Penalties.

Any person who violates, causes, or permits another person to violate any provision of this chapter commits a misdemeanor.

4.23 Civil Injunction.

The violation of any provision of this chapter shall be and is hereby declared to be contrary to the public interest and shall, at the discretion of City Manager, create a cause of action for injunctive relief

4.24 Severability.

The provisions of this chapter are hereby declared to be severable. If any provision, clause, word, sentence, or paragraph of this chapter or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this Chapter.

4.25 Judicial Review.

Judicial review of a decision made under this chapter may be had by filing a petition for a writ of mandate with the superior court in accordance with the provisions of the California Code of Civil Procedure Section 1094.5. Any such petition shall be filed within ninety (90) days after the day the decision becomes final as provided in California Code of Civil Procedure Section 1094.6 which shall be applicable for such actions.

4.26 General Plan Consistency. The proposed amendment is consistent with the goals and policies of all elements of the General Plan in that the proposed licensing of the proposed use is considered to be consistent with an underlying pharmacy or medical service use which would be consistent with the commercial and industrial General Plan land use classifications that apply to the areas in which the use would be licensed.

4.27 Public Interest Health, Safety, Convenience or Welfare. The proposed Ordinance would not be detrimental to the public interest, health, safety, convenience or welfare of the City in that the amendment implements State Health and Safety Code Section 11362.5, et. Seq., and serves an identified need of residents of the City with appropriate limitations and restrictions established therein that are intended to ensure such facilities that may be operated within the City should not have adverse effects in this regard.

4.28 Environmental Determination. The Council finds that the adoption and implementation of this ordinance are exempt from the provisions of the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15060(c)(2) in that the Council finds there is no foreseeable possibility that the implementation of this ordinance to add a new medical service land use classification and specific land use standards to regulate the land use would have any direct or indirect significant effects on the environment.

Chapter 4.00 Medical Cannabis Dispensaries - Continued

4.29 Term of Ordinance. This ordinance shall remain in effect until amended or repealed by the City Council.

4.30 Fee Schedule. The City Manager shall initiate a fee schedule to establish dispensary permit application fee, renewal fee and transfer fee amounts and these will be added to the Fee Schedule as adopted by the City Council each year with the Annual Budget.

4.31 Forms. The City Manager shall initiate preparation of any application forms and materials required to implement the dispensary permit process.

4.32 Severability. If any action, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid and/or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

PASSED AND ADOPTED by the City Council of the City of Del Rey Oaks on November 18, 2014, by the following roll call vote:

Council Member Ventimiglia:

Council Member Cecilio:

Council Member Allion:

Vice Mayor Clark:

Mayor Edelen:

ATTEST:

Jerry B. Edelen, Mayor

Daniel J. Dawson, City Clerk

Staff Report: Amendment to MRWMA Joint Exercise of Powers Agreement

To: The Honorable Mayor and City Council

From: Daniel Dawson

Subject: **Amendment to MRWMA Joint Exercise of Powers Agreement**

RECOMMENDATION: Adopt Resolution 2014-13 approving Amendment to Joint Exercise of Powers Agreement for Monterey Regional Waste Management Authority

DISCUSSION

The Monterey Regional Waste Management District (MRWMD) is an Independent Special District of the State of California formed in 1951 to provide solid waste management, recycling, and disposal services to its member agencies. The Monterey Regional Waste Management Authority (Authority) was formed in 1993 for the purpose of issuing bonds to construct capital projects related to recycling, principally the Materials Recovery Facility (MRF). The City of Del Rey Oaks became a member of the Authority by executing the Joint Exercise of Powers Agreement (JPA Agreement) in 1993.

The MRF and related capital improvements that included the Last Chance Mercantile and the Household Hazardous Waste Collection Facility were built and placed into operation in the mid-1990s. The bonds have been paid off and MRWMA has no debt at this time.

The MRWMD is planning three major capital improvements listed below to update its community infrastructure, allow member agencies to comply with AB 1826, which will require mandatory organics diversion from landfill beginning in 2016, and to ensure compliance with the State 75% diversion goal by 2020.

1. MRF Infrastructure Improvement
2. Truck Parking and Maintenance Building for Green Waste Recovery (GWR)
3. Compressed Natural Gas (CNG) Fueling Station

These capital improvement projects are estimated to require \$30 million in revenue bond financing for construction. In seeking financing, the MRWMD revenue stream will need to be as stable and secure as possible in the future. MRWMD current revenues are approximately 70% dependent on revenue from franchised haulers serving the member agencies. Franchise haulers are required under the waste flow control terms of the franchise agreements to deliver certain recyclable material and wastes to the District for processing and disposal.

The attached proposed Amendment is necessary to revise Section 7.01 of the JPA Agreement to update the wording related to the flow control of solid waste to the District facilities for processing and disposal. The waste flow control wording from the 1993 agreement has been updated to be consistent with the new GWR franchise agreements approved by seven of the nine member agencies of the Authority.

Additionally, Section 7.02 has been added, which (a) provides for the redirection by the member agencies of recyclable materials to the MRWMD MRF, upon completion of improvements designed to accept those recyclables, as provided for in the new 15-year franchise agreements with GWR, and (b) accounts for the fact that the City of Monterey and the County of Monterey have existing franchise agreements that allow those recyclables to be processed at the Monterey MRF in Ryan Ranch, and at the Waste Management, Inc. facility in Castroville.

A second minor revision is included in the proposed Amendment to correct a clerical error in Section 6.02 of the JPA Agreement.

It should be noted Section 2.06 of the attached JPA Agreement provides that the Authority “is a legal entity separate and distinct from its member agencies” and “The debts, duties and obligations created pursuant to this Agreement shall be solely the obligation of the Authority and not those of its officers, employees, Board of Directors or its member agencies.”

The MRWMD Board of Directors approved as to form the draft Amendment for the flow control revision at their October 17, 2014 meeting. All of the member agency governing bodies will consider approval of the Amendment before the end of the year. The bond documents are being prepared and a closing on the sale of the revenue bond financing is anticipated for March 2015.

Attachments

- A. Proposed Amendment to MRWMA JPA Agreement
- B. MRWMA JPA Agreement dated April 1, 1993

RESOLUTION NO. 2014-13

A Resolution of the City of Del Rey Oaks approving Amendment to Joint Exercise of Powers Agreement for Monterey Regional Waste Management Authority

WHEREAS, each of the Member Agencies presently has a representative on the Board of Directors of the Monterey Regional Waste Management District (“MRWMD”); and

WHEREAS, each Member Agency is duly authorized and empowered by law to contract for the joint exercise of powers under the Government Code of the State of California, and each Member Agency further has and possesses the statutory power and authorization to regulate and control the collection, disposal and recycling of Discarded Materials (as defined herein); and

WHEREAS, pursuant to the JPA Agreement, the Member Agencies have established the Monterey Regional Waste Management Authority (the “Authority”), a joint exercise of powers agency, separate and distinct from the Member Agencies, to undertake and implement the common power of the Member Agencies to study, plan for, design, finance, construct and operate, and to contract for same, refuse landfill disposal and recycling facilities within the boundaries of the Authority; and

WHEREAS, the continued maintenance of a definite and reliable flow of Solid Waste, Recyclable Materials, Organic Materials and C&D (all as defined herein) is essential to the Authority and to the Authority’s ability to secure adequate financing for the maintenance, modernization and expansion of its facilities; and

WHEREAS, the Member Agencies have determined to amend Article 7 of the JPA Agreement as set forth herein to provide for such continued maintenance of such definite and reliable flow; and

WHEREAS, the Member Agencies have also determined to amend Article 6 of the JPA Agreement to correct a clerical error to an incorrect paragraph reference; and

WHEREAS, the JPA Agreement may be amended in the manner set forth in Section 8.07 thereof;

NOW, THEREFORE, the Member Agencies hereby agree to amend the JPA Agreement as follows:

1. Amendment of Article 7. Article 7 of the JPA Agreement is hereby amended to read in full as follows:

ARTICLE 7. WASTE FLOW CONTROL

7.01 Flow Control of Discarded Materials. Recognizing that a continued maintenance of a definite and reliable flow of Solid Waste, Recyclable Materials, Organic Materials and C&D to the Authority is essential to the Authority’s continued ability to secure adequate financing for the maintenance of its existing facilities, as well as to modernize and expand those facilities, each Member Agency shall, to the maximum extent permitted by law, require in all franchise agreements, use permits and/or contracts they enter into with each and every hauler or operator (hereinafter referred to as

“Contractor”) collecting Discarded Materials for disposal or recycling from any source within MRWMD’s boundaries, that all such waste and materials be delivered during the term of said franchise agreement, use permit and/or other contract solely to a facility designated by the Authority or as otherwise directed by the Authority.

7.02 Agency Redirection of Recyclable Materials. In 2014 seven of the Member Agencies entered into new franchise agreements for the collection and delivery of Discarded Materials. Each of the franchise agreements includes the following provision: “**Agency Right to Redirect Recyclable Materials.** The Agency may, at any time during the term of this Agreement, require Contractor to delivery Recyclable Materials collected under this Agreement to a processing facility owned by the MRWMD.” A Member Agency with such a new franchise agreement shall, upon written notice from the Authority, during the term of the franchise agreement containing the provision set out in this subsection, exercise its right to require, and shall require, the Member Agency’s Contractor to deliver Recyclable Materials, including Source Separated Recyclable Materials, to a processing facility owned by the MRWMD. Other Member Agencies, with an existing (in 2014) and continuing franchise agreement, shall consider and consult with the MRWMD concerning the redirection of their Recyclable Materials to a MRWMD processing facility at such time as they amend, extend or enter into new franchise agreements.

7.03 Definitions. Capitalized terms used in this Article 7 and not otherwise defined shall have the following meanings:

“C&D” means discarded building materials, packaging, debris, and rubble resulting from construction, alteration, remodeling, repair or demolition operations on any pavements, excavation projects, houses, commercial buildings, or other structures, excluding Excluded Waste.

“Discarded Materials” means Solid Waste, Recyclable Materials, Organic Materials and C&D placed by a generator in a receptacle and/or at a location for the purposes of collection by a Contractor, excluding Excluded Waste.

“Excluded Waste” means hazardous substance, hazardous waste, infectious waste and designated waste (all as defined by applicable law), volatile, corrosive, biomedical, infectious, biohazardous, and toxic substances or material, waste that the Contractor reasonably believes would, as a result of or upon disposal, be a violation of local, state or federal law, regulation or ordinance, including land use restrictions or conditions, waste that cannot be disposed of in Class III landfills, and waste that in the Contractor's reasonable opinion would present a significant risk to human health or the environment, cause a nuisance or otherwise create or expose the Contractor, the Member Agency or the Authority to potential liability.

“Organic Materials” means those yard trimmings and food scraps accepted at Authority facilities.

“Recyclable Materials” means those Discarded Materials that: waste generators set out in recyclables containers for collection for the purpose of recycling by the Contractor that are at least ninety percent (90%) recyclable and that exclude Excluded Waste.

“Solid Waste” means solid waste as defined in the California Public Resources Code and regulations promulgated hereunder, excluding Excluded Waste, C&D, source separated Recyclable Materials, and source separated Organic Materials and radioactive waste.

“Source Separated” means the segregation, by the generator, of materials designated for separate Collection for some form of recycling, composting, recovery or reuse.

2. Amendment of Article 6. Paragraph 6.02 of Article 6 is hereby amended to remove therefrom the word and number “paragraph 7.02” and insert in place thereof the word and number “paragraph 8.02,”

3. JPA Agreement in Full Force and Effect. Except as specifically amended hereby, the JPA Agreement shall remain in full force and effect.

4. Effectiveness. This Amendment shall be effective upon the execution and delivery hereof by two-thirds of the existing members of the Authority.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Del Rey Oaks approves the AMENDMENT TO JOINT EXERCISE OF POWERS AGREEMENT FOR THE MONTEREY REGIONAL WASTE MANAGEMENT AUTHORITY.

PASSED AND ADOPTED by the City Council of the City of Del Rey Oaks at a regular meeting duly held on November 18, 2014, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

ATTEST:

Jerry B. Edelen, Mayor

Daniel J. Dawson, City Clerk

**AMENDMENT TO JOINT EXERCISE OF POWERS
AGREEMENT FOR THE
MONTEREY REGIONAL WASTE MANAGEMENT AUTHORITY**

THIS AMENDMENT TO JOINT EXERCISE OF POWERS AGREEMENT FOR THE MONTEREY REGIONAL WASTE MANAGEMENT AUTHORITY (this "Amendment") is made and entered into by and between those certain public agencies, hereinafter designated individually as the "Member Agency," which have duly executed, pursuant to resolution or ordinance, The Joint Exercise of Powers Agreement For The Monterey Regional Waste Management Authority, dated April 1, 1993 (the "JPA Agreement"), as follows:

RECITALS

WHEREAS, each of the Member Agencies presently has a representative on the Board of Directors of the Monterey Regional Waste Management District ("MRWMD"); and

WHEREAS, each Member Agency is duly authorized and empowered by law to contract for the joint exercise of powers under the Government Code of the State of California, and each Member Agency further has and possesses the statutory power and authorization to regulate and control the collection, disposal and recycling of Discarded Materials (as defined herein); and

WHEREAS, pursuant to the JPA Agreement, the Member Agencies have established the Monterey Regional Waste Management Authority (the "Authority"), a joint exercise of powers agency, separate and distinct from the Member Agencies, to undertake and implement the common power of the Member Agencies to study, plan for, design, finance, construct and operate, and to contract for same, refuse landfill disposal and recycling facilities within the boundaries of the Authority; and

WHEREAS, the continued maintenance of a definite and reliable flow of Solid Waste, Recyclable Materials, Organic Materials and C&D (all as defined herein) is essential to the Authority and to the Authority's ability to secure adequate financing for the maintenance, modernization and expansion of its facilities; and

WHEREAS, the Member Agencies have determined to amend Article 7 of the JPA Agreement as set forth herein to provide for such continued maintenance of such definite and reliable flow; and

WHEREAS, the Member Agencies have also determined to amend Article 6 of the JPA Agreement to correct a clerical error to an incorrect paragraph reference; and

WHEREAS, the JPA Agreement may be amended in the manner set forth in Section 8.07 thereof;

NOW, THEREFORE, the Member Agencies hereby agree to amend the JPA Agreement as follows:

1. Amendment of Article 7. Article 7 of the JPA Agreement is hereby amended to read in full as follows:

ARTICLE 7. WASTE FLOW CONTROL

7.01 Flow Control of Discarded Materials. Recognizing that a continued maintenance of a definite and reliable flow of Solid Waste, Recyclable Materials, Organic Materials and C&D to the Authority is essential to the Authority's continued ability to secure adequate financing for the maintenance of its existing facilities, as well as to modernize and expand those facilities, each Member Agency shall, to the maximum extent permitted by law, require in all franchise agreements, use permits and/or contracts they enter into with each and every hauler or operator (hereinafter referred to as

“Contractor”) collecting Discarded Materials for disposal or recycling from any source within MRWMD’s boundaries, that all such waste and materials be delivered during the term of said franchise agreement, use permit and/or other contract solely to a facility designated by the Authority or as otherwise directed by the Authority.

7.02 Agency Redirection of Recyclable Materials. In 2014 seven of the Member Agencies entered into new franchise agreements for the collection and delivery of Discarded Materials. Each of the franchise agreements includes the following provision: “**Agency Right to Redirect Recyclable Materials.** The Agency may, at any time during the term of this Agreement, require Contractor to delivery Recyclable Materials collected under this Agreement to a processing facility owned by the MRWMD.” A Member Agency with such a new franchise agreement shall, upon written notice from the Authority, during the term of the franchise agreement containing the provision set out in this subsection, exercise its right to require, and shall require, the Member Agency’s Contractor to deliver Recyclable Materials, including Source Separated Recyclable Materials, to a processing facility owned by the MRWMD. Other Member Agencies, with an existing (in 2014) and continuing franchise agreement, shall consider and consult with the MRWMD concerning the redirection of their Recyclable Materials to a MRWMD processing facility at such time as they amend, extend or enter into new franchise agreements.

7.03 Definitions. Capitalized terms used in this Article 7 and not otherwise defined shall have the following meanings:

“C&D” means discarded building materials, packaging, debris, and rubble resulting from construction, alteration, remodeling, repair or demolition operations on any pavements, excavation projects, houses, commercial buildings, or other structures, excluding Excluded Waste.

“Discarded Materials” means Solid Waste, Recyclable Materials, Organic Materials and C&D placed by a generator in a receptacle and/or at a location for the purposes of collection by a Contractor, excluding Excluded Waste.

“Excluded Waste” means hazardous substance, hazardous waste, infectious waste and designated waste (all as defined by applicable law), volatile, corrosive, biomedical, infectious, biohazardous, and toxic substances or material, waste that the Contractor reasonably believes would, as a result of or upon disposal, be a violation of local, state or federal law, regulation or ordinance, including land use restrictions or conditions, waste that cannot be disposed of in Class III landfills, and waste that in the Contractor's reasonable opinion would present a significant risk to human health or the environment, cause a nuisance or otherwise create or expose the Contractor, the Member Agency or the Authority to potential liability.

“Organic Materials” means those yard trimmings and food scraps accepted at Authority facilities.

“Recyclable Materials” means those Discarded Materials that: waste generators set out in recyclables containers for collection for the purpose of recycling by the Contractor that are at least ninety percent (90%) recyclable and that exclude Excluded Waste.

“Solid Waste” means solid waste as defined in the California Public Resources Code and regulations promulgated hereunder, excluding Excluded Waste, C&D, source separated Recyclable Materials, and source separated Organic Materials and radioactive waste.

“Source Separated” means the segregation, by the generator, of materials designated for separate Collection for some form of recycling, composting, recovery or reuse.

2. Amendment of Article 6. Paragraph 6.02 of Article 6 is hereby amended to remove therefrom the word and number "paragraph 7.02" and insert in place thereof the word and number "paragraph 8.02,"

3. JPA Agreement in Full Force and Effect. Except as specifically amended hereby, the JPA Agreement shall remain in full force and effect.

4. Effectiveness. This Amendment shall be effective upon the execution and delivery hereof by two-thirds of the existing members of the Authority.

IN WITNESS WHEREOF the Member Agencies hereto, by and through their respective duly authorized representatives, have executed this AMENDMENT TO JOINT EXERCISE OF POWERS AGREEMENT FOR THE MONTEREY REGIONAL WASTE MANAGEMENT AUTHORITY on the dates so indicated hereinafter.

CITY OF CARMEL

By _____
Mayor

ATTEST:

City Clerk

CITY OF DEL REY OAKS

By _____
Mayor

ATTEST:

City Clerk

CITY OF MARINA

By _____
Mayor

ATTEST:

City Clerk

CITY OF MONTEREY

By _____
Mayor

ATTEST:

City Clerk

CITY OF PACIFIC GROVE

By _____
Mayor

ATTEST:

City Clerk

CITY OF SAND CITY

By _____
Mayor

ATTEST:

City Clerk

CITY OF SEASIDE

By _____
Mayor

ATTEST:

City Clerk

COUNTY OF MONTEREY

By _____
Board of Supervisors Chair

ATTEST:

Board Clerk

PEBBLE BEACH COMMUNITY SERVICES DISTRICT

By _____
Board Chair

ATTEST:

Board Clerk

JOINT EXERCISE OF POWERS AGREEMENT
FOR THE
MONTEREY REGIONAL WASTE MANAGEMENT AUTHORITY

THIS AGREEMENT is made and entered into by and between those certain public agencies, hereinafter designated as "eligible public agencies," which have duly executed, pursuant to resolution or ordinance, a counterpart hereof, as follows:

ARTICLE I. RECITALS

1.01 Presently Existing District. Each of the parties hereto is presently a member of the Monterey Regional Waste Management District, hereafter referred to as "MRWMD," a Garbage and Refuse Disposal District organized pursuant to California Public Resources Code §§49100 et seq.

1.02 Joint Exercise of Powers. Each of the parties to this Agreement is a public agency duly authorized and empowered by law to contract for the joint exercise of powers under Article 1, Chapter 5, Division 7, Title 1 of the Government Code of the State of California (§§6500 et seq.), and each party further has and possesses the common power and authorization to acquire, construct, maintain, operate, regulate and control facilities for the landfill disposal or recycling of garbage, waste, rubbish or other refuse material, hereafter "waste," and to contract for the disposal of same.

1.03 Desire to Vest Power. Each of the parties hereto desires to vest the power to control the activities of the established organization of the parties comprising the MRWMD, to ensure that the facilities are owned and operated in a manner which will maximize the use and life of the existing landfill, as well as any subsequently acquired landfill property or related activities, as envisioned at the establishment of MRWMD, for the benefit of lands and inhabitants within the MRWMD's currently existing boundaries, and to assist in the financing, acquisition and construction of such recycling and refuse facilities as may be necessary to meet the expanding requirements of new state and federal environmental laws.

ARTICLE 2. CREATION OF AUTHORITY

2.01 Joint Powers Agency. In consideration of the mutual promises and covenants contained herein, there is hereby created by agreement of the parties hereto a joint powers agency, with the powers and authority as hereinafter set forth.

2.02 Name of Agency. The joint powers agency created hereby shall be known as and designated the "Monterey Regional Waste Management Authority," hereinafter referred to as the "Authority."

2.03 Purpose. The purpose of this Agreement is to create a separate public agency to undertake and implement the common power and authority of its members to study, plan for, design, finance, construct and operate, and to contract for same, refuse landfill disposal and recycling facilities within the boundaries of the Authority.

2.04 Powers. The Authority shall have all powers necessary to carry out the purpose of this Agreement, except the power to tax. The Authority shall have the power, in its own name, to do any and all of the following:

- a) To make and enter into contracts;
- b) To employ agents and employees and to contract for professional services;
- c) To acquire, convey, construct, finance, re-finance, regulate, manage, maintain and operate buildings, works and improvements;
- d) To acquire, hold, improve and convey real and personal property;
- e) To sue and be sued in its own name;
- f) To incur and discharge debts, liabilities and obligations;
- g) To issue securities, bonds, notes, warrants, other evidences of indebtedness and certificates of participation in Authority leases or contracts to finance costs and expenses incidental to the projects of the Authority;
- h) To apply for and execute appropriate grants or contracts of financial assistance from state and federal agencies;
- i) To issue revenue bonds in accordance with the State of California statutes more specifically set forth in Article 5, paragraph 5.01 herein below;
- j) To establish, levy and collect charges, fees, rates and tolls for the use of Authority disposal and recycling facilities, as well as for any other services or facilities provided by the Authority;
- k) To lease or sell any facilities operated or owned by the Authority;
- l) To loan proceeds from the issuance of bonds or securities;
- m) To exercise the power of eminent domain and to condemn any real property necessary to carry out the objects or purposes of the Authority;
- n) To require member entities of the Authority to direct their franchise haulers or operators to deliver all waste, refuse and collected materials to specific facilities of the Authority;
- o) To contract by separate agreement with Authority members for the Authority to assume the responsibility and liability of the member agencies for compliance with the requirements of Assembly Bill 939 (the California Integrated Solid Waste Management Act of 1989), and subsequent related legislation; and in the event of such an agreement, the power to require contracting member

agencies to conform with certain minimum standards of AB 939 program service and compliance.

p) To adopt, as authorized by law, resolutions or ordinances necessary to carry out the purposes of this Agreement; and

q) To the extent not herein specifically provided for, to exercise any and all other powers common to the parties hereto.

To the extent not otherwise herein specifically provided for, the foregoing powers shall be exercised by the Authority in the manner and according to the methods provided in the laws applicable to a California Garbage and Refuse Disposal District, as set forth in Public Resources Code §§49100 et seq.

2.05 Compliance With State Waste Management Regulations. The Authority may agree to accept the responsibility for costs incurred by member agencies as a result of AB 939 and subsequent related legislation, so long as waste management plans are prepared by Monterey County, and attempt to coordinate recycling activities on a regional basis. Any member agency may, at its own expense, modify its individual "Source Reduction and Recycling Elements" or other AB 939 plan. If future legislation allows single district- wide plans to be prepared on a "waste-shed" basis, the Authority may agree to assume full financial responsibility for those plans.

2.06 Separate Legal Entity. The Authority created hereby is a public entity duly formed and existing under the laws of the State of California, and is a legal entity separate and distinct from its member agencies, the parties hereto. The debts, duties and obligations created pursuant to this Agreement shall be solely the obligation of the Authority and not those of its officers, employees, Board of Directors or its member agencies.

2.07 Eligible Public Agencies. The eligible public agencies which may become parties to this Agreement and members of the Authority are specified as follows :

- a) The City of Carmel-by-the-Sea;
- b) The City of Del Rey Oaks;
- c) The City of Marina;
- d) The City of Monterey;
- e) The City of Pacific Grove;
- f) The City of Sand city;
- g) The City of Seaside; and
- h) The County of Monterey.

An eligible public agency shall become a party hereto and a member of the Authority upon execution of this Agreement and any addenda, amendment or supplement thereto. The Authority may approve membership of other public agencies at any time, by a two- thirds (2/3rds) vote of the Board of Directors and upon such terms and conditions as the Authority may prescribe. Membership of the Authority shall be limited to the County of Monterey and incorporated cities and other public agencies

and districts within Monterey County.

2.08 Service to Adjacent Territory. Unless otherwise determined by a duly enacted resolution of the Board of Directors, Authority disposal and recycling facilities may only be utilized for the benefit of citizens, residents and businesses within its boundaries. (It should be noted that the current practice of MRWMD the Board, within its discretion, is to provide services to the entire area of Monterey County, upon payment of an additional out-of- District fee.)

ARTICLE 3. ORGANIZATION

3.01 Board of Directors. The powers of the Authority shall be vested in and exercised by and through its governing body, known as the Board of Directors. Each member entity shall have one representative on the Board who shall be appointed, serve terms and receive compensation as prescribed in Public Resources Code §§49121 through 49123. All vacancies on the Board shall be filled in the same manner as the original appointment. Board members of the Authority shall also be appointed to and serve concurrent terms on the Board of Directors of the MRWMD.

3.02 Meetings. The Board shall establish a time, place and date for its regular meetings. Regular meetings may be adjourned from time to time. Special meetings may be called by the Chairman of the Board or by a majority of the members of the Board.

3.03 Quorum. A majority of the members of the Board of Directors shall constitute a quorum for the transaction of Authority business.

3.04 Voting. The vote of a majority of the members of the Board of Directors present at any regular, adjourned or special meeting shall be sufficient to pass and act upon any matter properly before the Authority, and each member of the Board shall have one vote.

3.05 Officers. There shall be selected from the membership of the Board of Directors a chairperson and a vice-chairperson, who shall act in the absence of the chairperson, and if the Authority has no manager as provided for in Section 3.06 herein below, a secretary, and such other officers as the Board may deem necessary. Pursuant to Government Code §§6505.5 and 6505.6, the general manager shall be the treasurer of the Authority, to be the depository, have custody of all money of the Authority from whatever source and have the powers and duties as set forth in said §6505.5. The administrative services officer shall be the auditor-controller of the Authority, and shall draw all warrants and pay demands against the Authority approved by the Authority Board or general manager. The treasurer and auditor-controller hereby designated may be changed by action of the Board of Directors. All officers shall serve for a term of one (1) year from the date of their election or until their successors are elected. The chairperson, or vice-chairperson, in the absence of the chairperson, is authorized to execute all documents in the name of the Authority, and the secretary is authorized to attest to the same.

3.06 Manager and Other Employees. The Board may employ or contract for the services of a manager and such other employees and assistants as may be appropriate. Should the Board employ or appoint a manager, that person shall be the chief administrative officer and shall assume such other duties and responsibilities as the Board may direct. The manager shall also serve as secretary to the

Authority and shall have the power to certify Authority documents, as required by law. The manager shall serve at the pleasure of the Board.

3.07 Public Meetings. All meetings of the Board shall be open to the public and shall be called, noticed, held and conducted in accordance with the provisions of the Ralph M. Brown Act, being §§54950 et seq. of the California Government Code.

3.08 Rules. The Board may adopt from time to time such rules and regulations for the conduct of its affairs as may be required.

ARTICLE 4. FINANCIAL PROVISIONS

4.01 Costs of Operation. All costs of operation of the Authority shall be received from:

a) Revenues from fees and charges for the use of, or the impact of new development or the addition of new service territory upon, facilities owned, operated or to be acquired by the Authority;

b) Revenues from taxes, fees and charges levied or collected by the MRWMD, pursuant to written agreement between said MRWMD and the Authority;

c) Revenues from the sale of recyclables, sand, landfill gas, electrical power, land leases and other similar sources; and

d) Grant funds received from state or federal agencies;

e) Funds from the sale of securities, bonds or certificates of participation issued by the Authority.

4.02 Limitation on Authority. The Authority shall have no power to incur any indebtedness, nor to enter into any contract, which may be a charge payable by any member hereunder, without the express consent of the governing body of such member. The Authority shall have no power to borrow money or issue bonds which will in any way be a charge or lien on any member or any member's property.

4.03 No Liability of Member. No member shall be liable for any indebtedness of the Authority except that which is expressly consented to by its governing body. All persons dealing with the Authority shall be hereby notified that no member shall be liable for the debts of the Authority.

4.04 Subsequent Members. As determined by the Authority Board, members who are permitted to join the Authority after taxes, money, property or services shall have been contributed by existing members, or the residents-taxpayers thereof, may do so only pursuant to such terms and conditions, including the payment of an annexation or reimbursement fee, as may be determined by the Authority Board of Directors, in its sole discretion. The Authority's determinations and calculations under the section shall be conclusive, and any reimbursement or annexation fee required hereunder shall

be a condition to membership.

4.05 Fiscal Year. The fiscal year of the Authority shall be from July 1 to June 30, following.

4.06 Accounting Procedures. Full books and accounts shall be maintained for the Authority in accordance with practices established by or consistent with those utilized by the Controller of the State of California for like public agencies (see Government Code §26909). In particular, the controller and treasurer of the Authority shall comply with the requirements of the statutes governing joint powers agencies as set forth in Articles 1 and 4, Chapter 5, Division 7, Title 1 of the Government Code (§§6500 et seq.).

4.07 Audit. The General Manager of the Authority shall cause the accounts and records of the Authority to be audited annually in accordance with the provisions of California Government Code §6505, and copies of such audit report shall be filed with the Monterey County Auditor and each member of the Authority within six (6) months of the end of the fiscal year under examination.

4.08 Official Bonds. The manager and such other employees or agents as the Board may direct shall file an official bond in the amount determined by the Board. The cost of said bond(s) shall be borne by the Authority.

ARTICLE 5. BOND FINANCING

5.01 Revenue Bonds. The Authority shall have the power and authority to issue and sell revenue bonds in accordance with the procedures and requirements set forth in:

- a) Articles, 2 and 4, Chapter 5, Division 7, Title 1 of the California Government Code, commencing with §6540;
- b) Chapter 6, Division 2, Title 5 of the California Government Code, commencing with §54300;
- c) Chapter 5, Part 3, Division 5 of the California Public Resources Code, commencing with §49160; and
- d) Any other then-applicable law regarding or permitting the issuance of revenue bonds by a joint powers agency.

ARTICLE 6. PROPERTY RIGHTS

6.01 Authority Facilities. All facilities, assets and property acquired or constructed by the Authority shall be held in the name of the Authority for the benefit of its members in accordance with the terms of this Agreement; provided, however, that the Authority Board may determine, in its discretion, that such facilities, property or assets may more appropriately or beneficially be held in the name of the MRWMD, pursuant to written agreement with the Authority.

6.02 Transfer of Facilities Upon Dissolution. Upon termination of this Agreement and dissolution of the Authority, as hereinafter provided for in ~~paragraph 7.02~~ paragraph 8.02, the facilities, assets and property of the Authority shall be transferred and conveyed to the MRWMD or to such other successor entity as may be created hereafter by the members of the Authority to own and operate the garbage and refuse disposal and recycling facilities contemplated by this Agreement for the benefit of all lands and inhabitants within the boundaries of the Authority.

ARTICLE 7. WASTE FLOW CONTROL

~~7.01 Waste Flow Control. Recognizing that the establishment of a definite and reliable waste flow to the Authority is essential to the Authority and to the securing of adequate financing for the acquisition and construction of necessary recycling and recovery facilities, the parties hereby agree that, commencing upon January 1, 1994, or upon the earlier expiration date of existing refuse collection franchise agreements and use permits for transfer stations, each of the parties shall amend or condition its franchise agreements and use permits to require:~~

~~e) — each hauler or operator to deliver all refuse collected, which will not be recycled or processed at a materials recovery facility ("MRF"), and all waste materials resulting from processing at a MRF within the boundaries of the Authority, to a landfill or other facility operated by or for the Authority; and~~

~~e) each hauler or operator to transport all construction and demolition material, concrete, asphalt, wood waste and yard waste to a recycling or disposal facility operated by or for the Authority.~~

Flow Control of Discarded Materials. Recognizing that a continued maintenance of a definite and reliable flow of Solid Waste, Recyclable Materials, Organic Materials and C&D to the Authority is essential to the Authority's continued ability to secure adequate financing for the maintenance of its existing facilities, as well as to modernize and expand those facilities, each Member Agency shall, to the maximum extent permitted by law, require in all franchise agreements, use permits and/or contracts they enter into with each and every hauler or operator (hereinafter referred to as "Contractor") collecting Discarded Materials for disposal or recycling from any source within MRWMD's boundaries, that all such waste and materials be delivered during the term of said franchise agreement, use permit and/or other contract solely to a facility designated by the Authority or as otherwise directed by the Authority.

7.02 Agency Redirection of Recyclable Materials. In 2014 seven of the Member Agencies entered into new franchise agreements for the collection and delivery of Discarded Materials. Each of the franchise agreements includes the following provision: "Agency Right to Redirect Recyclable Materials. The Agency may, at any time during the term of this Agreement, require Contractor to delivery Recyclable Materials collected under this Agreement to a processing facility owned by the MRWMD." A Member Agency with such a new franchise agreement shall, upon written notice from the Authority, during the term of the franchise agreement containing the provision set out in this subsection, exercise its right to require, and shall require, the Member Agency's Contractor to deliver Recyclable Materials, including Source Separated Recyclable Materials, to a processing facility owned by the MRWMD. Other Member Agencies, with an existing (in 2014) and continuing franchise agreement, shall consider

and consult with the MRWMD concerning the redirection of their Recyclable Materials to a MRWMD processing facility at such time as they amend, extend or enter into new franchise agreements.

7.03 Definitions. Capitalized terms used in this Article 7 and not otherwise defined shall have the following meanings:

“C&D” means discarded building materials, packaging, debris, and rubble resulting from construction, alteration, remodeling, repair or demolition operations on any pavements, excavation projects, houses, commercial buildings, or other structures, excluding Excluded Waste.

“Discarded Materials” means Solid Waste, Recyclable Materials, Organic Materials and C&D placed by a generator in a receptacle and/or at a location for the purposes of collection by a Contractor, excluding Excluded Waste.

“Excluded Waste” means hazardous substance, hazardous waste, infectious waste and designated waste (all as defined by applicable law), volatile, corrosive, biomedical, infectious, biohazardous, and toxic substances or material, waste that the Contractor reasonably believes would, as a result of or upon disposal, be a violation of local, state or federal law, regulation or ordinance, including land use restrictions or conditions, waste that cannot be disposed of in Class III landfills, and waste that in the Contractor's reasonable opinion would present a significant risk to human health or the environment, cause a nuisance or otherwise create or expose the Contractor, the Member Agency or the Authority to potential liability.

“Organic Materials” means those yard trimmings and food scraps accepted at Authority facilities.

“Recyclable Materials” means those Discarded Materials that: waste generators set out in recyclables containers for collection for the purpose of recycling by the Contractor that are at least ninety percent (90%) recyclable and that exclude Excluded Waste.

“Solid Waste” means solid waste as defined in the California Public Resources Code and regulations promulgated hereunder, excluding Excluded Waste, C&D, source separated Recyclable Materials, and source separated Organic Materials and radioactive waste.

“Source Separated” means the segregation, by the generator, of materials designated for separate Collection for some form of recycling, composting, recovery or reuse.

ARTICLE 8. MISCELLANEOUS PROVISIONS

8.01 **Effective Date.** This Agreement shall become effective, and the Authority shall be created, when the governing bodies of all eight (8) of the eligible public agencies listed in paragraph 2.06 hereinabove shall have either authorized or specifically declined to authorize execution of this Agreement, or in the event that any public agency should simply fail to execute the Agreement, then on April 1, 1993.

8.02 Termination. This Agreement may be terminated and the Authority dissolved by a two-thirds (2/3rds) vote of the Board of Directors, ratified by two-thirds (2/3rds) of the member agencies; provided, however, that there shall be no termination and dissolution a) if same would conflict with or violate the terms or conditions of any securities or revenue bonds issued by the Authority, and any related documentation, and b) in any event until any and all revenue bond debt incurred by the Authority for the construction or acquisition of disposal or recycling facilities has been fully amortized and retired or such debt is refinanced by the MRWMD or other successor entity.

8.03 Insurance for Tort Liability. Throughout the term of this Agreement the Authority shall maintain in force a comprehensive general and automobile liability insurance policy or policies, with minimum coverage of \$1,000,000.00 insuring the Authority, its employees and agents, from any loss, liability or claims arising out of or in any way connected with this Agreement or the operation of the Authority. In addition, in contemplation of the provisions of Government Code §895.2, imposing certain tort liability upon public entities which are parties to a joint powers agreement, such policies shall also name all parties to this Agreement as additional insureds, with such insurance coverage to be construed as primary insurance, and shall further provide that thirty (30) days' written notice be given to all additional insureds of cancellation or nonrenewal of said policies.

8.04 Arbitration. If a dispute arises as to the construction, interpretation or implementation of any provision of this Agreement, the issues in dispute or matter requiring actions shall be submitted to binding arbitration. For such purpose, an agreed arbitrator shall be selected by all members of the Board, or in the absence of such an agreement, the Board, by majority vote, shall select an arbitrator and the member or members in dissent shall select another arbitrator, and the two (2) arbitrators so selected shall select a third arbitrator. The arbitrator or the three (3) arbitrators acting as a panel, as the case may be, shall proceed to arbitrate the matter in accordance with the provisions of Title 9, Part 3, of the California Code of Civil Procedure.

8.05 Notices. All notices, statements, demands, requests, consents, approvals, authorizations, agreements, appointments or designations hereunder shall be given, in writing, and addressed to the principal office of each member of the Authority.

8.06 Severability. If any one or more of the terms, provisions, promises, covenants or conditions of this Agreement, or the application thereof to any member agency or circumstance, shall to any extent be adjudged invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction, each and all of the remaining terms, provisions, promises, covenants and conditions of this Agreement shall not be affected thereby and shall be valid and enforceable to the fullest extent permitted by law. Each of the parties hereto hereby declares that it would have entered into this Agreement, and each term, provision, promise, covenant and condition thereof, irrespective of the fact that one or more terms, provisions, promises, covenants, or conditions, or the application thereof to any member agency or circumstance, be held invalid, unenforceable, void or voidable.

8.07 Amendment. This Agreement may not be amended without the consent of two-thirds (2/3rds) of all existing members of the Authority at the time of amendment.

8.08 Successors. This Agreement shall be binding upon and shall inure to the benefit of the successors of the parties hereto.

8.09 Assignment. The parties hereto shall not assign any rights or obligations under this Agreement without the written consent of all other parties.

8.10 Additional Documents. The parties hereto agree upon request to execute, acknowledge and deliver all additional papers and documents necessary or desirable to carry out the intent of this Agreement.

8.11 Captions. Captions of the articles, sections and paragraphs of this Agreement are for convenience and reference only and are not intended to define or limit the scope of any provision contained herein.

IN WITNESS WHEREOF, the parties hereto, by and through their respective duly authorized representatives, have executed this Joint Exercise of Powers Agreement for the Monterey Regional Waste Management Authority on the date so indicated.



CITY OF DEL REY OAKS

650 CANYON DEL REY RD. · DEL REY OAKS, CALIFORNIA 93940
PHONE (831) 394-8511 · FAX (831) 394-6421
Office of the City Manager – Daniel J. Dawson

October 28, 2014

Honorable City Council Members,

I am sure you are all well aware that the sale of 73 Acres of our Former Fort Ord Property came after a lot of hard work by the staff working toward a way to keep the City out of imminent Bankruptcy while allowing a potential developer some margin of risk reduction.

Although the net proceeds were not a windfall by any means, the cash infusion allowed us to become current on all of our major Accounts Payable. The only exception is the past due amount to FORA and we are working on a mutually agreeable plan to allow us to pay 21% now and the remaining 79% upon the sale of the remaining Fort Ord Property. I am confident that an agreement on this repayment plan will be forthcoming.

I would like to use a small percentage of the proceeds to make a one-time payment to all employees with the exception of Chief Langford and myself who are both currently under Contract.

We could reward the sacrifices and hard work, not to mention the lack of salary or COLA increases for the past 4 years by making a one-time 100 hour contribution to the time-off bank of each employee.

The total cost of this one-time payment would be \$28,000 and would likely be paid out over time, as each employee chooses to use time off, or cash out the hours over the rest of the Fiscal Year. I strongly encourage all of you to take care of your loyal and dedicated "Del Rey Oaks Family". Thank you for your consideration.

Sincerely,

Daniel Dawson
City Manager

Cc: City Attorney