

## MINUTES

REGULAR COUNCIL MEETING  
OF  
APRIL 14, 2014  
5:30 P.M.

THE DALLES CITY HALL  
313 COURT STREET  
THE DALLES, OREGON

**PRESIDING:** Mayor Steve Lawrence

**COUNCIL PRESENT:** Bill Dick, Dan Spatz, Tim McGlothlin, Linda Miller

**COUNCIL ABSENT:** Carolyn Wood

**STAFF PRESENT:** City Manager Nolan Young, City Attorney Gene Parker, City Clerk Julie Krueger, Public Works Director Dave Anderson, Police Sergeant Jeff Halter, Administrative Fellow Jon Chavers, Administrative Intern Rich Wachter, Finance Director Kate Mast

### CALL TO ORDER

Mayor Lawrence called the meeting to order at 5:30 p.m.

### ROLL CALL

Roll call was conducted by City Clerk Krueger; Councilor Wood absent.

### PLEDGE OF ALLEGIANCE

Mayor Lawrence invited the audience to join in the Pledge of Allegiance.

### APPROVAL OF AGENDA

It was moved by Dick and seconded by Spatz to approve the agenda, as amended by the supplemental agenda. The motion carried unanimously, Wood absent.

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### **PRESENTATIONS/PROCLAMATIONS**

#### **Downtown Spring Clean Up Day Proclamation**

Mayor Lawrence read a Proclamation declaring April 16 and 19 as Downtown Spring Clean Up Days. Matthew Klebes from the Main Street Program accepted the Proclamation.

#### **Historic Preservation Month Proclamation**

Mayor Lawrence read a Proclamation declaring the month of May 2014 as Historic Preservation month in The Dalles. Trish Neal accepted the Proclamation.

#### **Historic Columbia River Highway Gorge Hubs Partnership Proclamation**

Administrative Fellow Chavers reviewed the staff report.

It was the consensus of the City Council to authorize the Mayor to sign the Gorge Hubs proclamation. The motion carried unanimously, Wood absent.

### **AUDIENCE PARTICIPATION**

None.

### **CITY MANAGER REPORT**

City Manager Young introduced Administrative Intern Rich Wachter, noting he was participating in a program with Portland Community College and said Mr. Wachter was currently working on the City's Business Continuity Plan.

Young asked Public Works Director Anderson to provide an update on the Ecoli issue on Mill Creek.

Anderson explained the steps taken by City crews to determine where the contamination was coming from. He said they had used a video camera, dye tests, smoke tests and some excavations, but were not able to determine the source. Anderson said the County was now planning to do some testing on some residences in the area that were outside the city limits, but it was believed the contamination was coming from an indirect source, such as a drain field. Anderson said he believed the County Health Department had issued a public service announcement but was unsure about when or if they would post the area with signs.

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City Manager Young said he had sent a memorandum to the Council regarding the Tri-County Household Hazardous Waste agreement. He said questions had been raised regarding representation on the Steering Committee. Young said the City had a staff person on the Committee, but that a City Councilor could also serve as the representative if they wished to.

Councilor Spatz said he understood there were two interagency agreements and that was causing confusion regarding who was serving as the lead agency. City Manager Young said the City had only signed one agreement, which listed Wasco County as lead agency.

It was the consensus of the Council to leave the staff person as the City's representative and to direct staff to provide meeting minutes and the budget.

City Manager Young said one more packet of budget issue papers would be sent out this week and the proposed City budget would be delivered next week, with Budget Committee meetings beginning on May 5.

#### **CITY ATTORNEY REPORT**

City Attorney Parker said he would be presenting two resolutions at the next Council meeting to stay in compliance with regulations for the Community Development Block Grant. Parker said much of his time had been spent working on the medical marijuana issue.

#### **CITY COUNCIL REPORTS**

Councilor McGlothlin reported that the Traffic Safety Commission had discussed the traffic study for 10<sup>th</sup> and Thompson Streets; poor signage near the post office; need for new painting of streets near the middle school; a vision clearance problem at Ninth and Kelly; and congestion on West Sixth Street, near Cousin's Restaurant. He said the Commission was told by the Transportation Manager that the cost of work for Second and Webber Streets would increase due to new laws.

McGlothlin said the Airport Business Park was on schedule and that runway paving was planned for early May. It was noted that the Airport Board would be receiving an update at their next meeting regarding the golf course development.

Councilor Dick said the QLife Agency had reviewed their proposed budget and that the Agency was in good financial condition and was able to discuss future needs and how funds could be used to support other projects.

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Councilor Spatz said he attended the Mid Columbia Economic Development District meeting in March. He said the economic development projects list was complete, and included two projects at the Airport, wetlands identification and the Washington Street Crossing project.

City Manager Young said he would send a list of the approved projects to the City Council.

Mayor Lawrence reported he had attended a Gorge Historic Communities meeting regarding cycling in The Dalles; Regional Solutions Team meeting; participated in the inaugural cruise of the American Empress; met with a blogger who was on a bike tour of The Dalles; attended a meeting regarding attainable housing; and participated in a tour of veterans facilities with a group from the Association of Oregon Counties.

Mayor Lawrence said he would be presenting a plaque to the Captain of the American Empress to commemorate her first cruise on the Columbia River.

### **CONSENT AGENDA**

It was moved by Spatz and seconded by McGlothlin to approve the Consent Agenda as amended. The motion carried unanimously, Wood absent.

Items approved by Consent Agenda were: 1) approval of March 24, 2014 regular City Council meeting minutes; 2) approval to declare Police Department equipment as surplus property; 3) Resolution No. 14-011 concurring with the Mayor's appointments to the Budget Committee; 4) authorizing the City Clerk to endorse OLCC New Outlet application for Fairfield Inn; and 5) authorizing the City Clerk to endorse OLCC New Outlet application for Boulder Path Designs.

### **PUBLIC HEARINGS**

#### **Public Hearing to Receive Testimony Regarding Special Ordinance No. 14-562 Regulating Medical Marijuana Dispensaries**

Mayor Lawrence reviewed the procedures to be followed for the public hearing.

City Attorney Parker reviewed the staff report. He provided a summary of other actions taken by cities in Oregon regarding the regulation of dispensaries. Parker said he disagreed with the preemption argument provided by the attorney for Mountain View Naturals. He said Mr. Steinman had cited a case that didn't apply to Oregon law and that it was just a footnote. He said it didn't have precedence value in Oregon. Parker said the two legislative bills could operate concurrently and there was no indication that either bill was meant to be exclusive. He said the City's charter authorized enacting a moratorium.

Mayor Lawrence asked what would happen if the City did not adopt the Ordinance imposing a moratorium, or the moratorium expired. City Attorney Parker said the City would then be subject to the State rules if they hadn't adopted their own.

Councilor Spatz asked what steps staff would take between now and the expiration of a moratorium. City Attorney Parker said it would allow time to follow the issue and see what happens with other cities.

### Testimony

Attorney Bradley Steinman, representing Mountain View Naturals, provided testimony supporting the City's local authority to regulate the dispensaries or enact a temporary moratorium. He said State law did provide guidance as to what would constitute reasonable regulations for the purposes of local government adopting an ordinance to regulate medical marijuana dispensaries; the City could adopt a marijuana business license ordinance under its authority to reasonably regulate conditions on the manner in which a facility could dispense medical marijuana; noted there were only 384 patients in Wasco County who were enrolled in the Oregon Medical Marijuana Program; testified that the City couldn't rely on federal law to avoid complying with state law; and expressed concern that his client may be denied due process rights under the Land Use Development Ordinance (full written comments attached as Exhibit A).

Mary Beth Thouvenal, 445 East Knoll Drive, The Dalles, testified in support of a moratorium, expressing concern that the youth of the community could have greater access to marijuana. She said as an educator and someone who had a family member with an addiction, she had personally witnessed behavioral changes from its use. She asked that it not be legitimized in the eyes of children by calling it medicine because there was not enough data to say the benefits outweighed the negative affects. Thouvenal said medical marijuana was a joke and most who used it didn't have any of the medical conditions that would be helped by its use.

Sandy Burbank, 2255 State Road, Mosier, Oregon, said she had a non-profit clinic in The Dalles. She asked if the ban was required to be for one year or if that time could be less than a year.

There was a discussion among the City Council and City Attorney regarding the language. It was noted the state law used the word "until" to describe the ending date of the moratorium, though the City's proposed ordinance used more permissive language that would allow the moratorium to be lifted at any time during the year. City Attorney said he and the League of Oregon Cities attorney believed the language to be permissive.

Ms. Burbank discussed her early involvement in the medical marijuana legalization, beginning in 1982 and said she was a strong advocate because she had seen first hand how it helps patients. She said she served on the Oregon Medical Marijuana Board and had opened three clinics in Oregon that see approximately 6,000 patients per year. Burbank said the average age of patients was 58 and that many of them were so ill, they were not capable of growing it for themselves. She noted that most patients administered it through a salve, tincture, or through edibles, not by smoking it.

Councilor McGlothlin asked how many medical marijuana clinics were operating in Oregon. Burbank said she didn't know because it was not tracked by the State.

Kathryn Serells, 3975 Dee Highway, Hood River, said she had been a medical marijuana patient for seven years to treat pancreatic disease. She said pharmaceutical medications had led to organ failure and caused terrible side affects, while the marijuana did not. She said having regulated dispensaries would ensure that patients were not getting laced or moldy product.

Harriett Lewis, 318 East Eighth Street, The Dalles testified regarding the difficulties of being ill and trying to grow your own medical marijuana. She said it was a lot of work and the plants had to be protected from theft. She said it would be much better to be able to purchase the medications through a dispensary.

Edward Sohler, Jr., 1378 Golden Mantle Road, Crooked River, said he was one of the owners of Mountain View Naturals. He said his company wanted to open a dispensary to provide safe access for patients in The Dalles, but only legally. He said they had applied to the State for a license, and planned to employ approximately eight people. He said people who came to the community would spend money here, boosting the economy.

Pamela \_\_\_\_\_, 7225 Highway 35, Hood River, said she was an employee at a clinic and was a medical marijuana patient. She said she had heard many stories from patients that had told her conventional medications were not working for them. She said kids' safety was the responsibility of parents and said they would not be going to dispensaries to get recreational marijuana, noting dispensaries were heavily regulated. She asked that patients rights be protected and that no moratorium be placed on dispensaries.

Jennifer Trent, 1304 Sherman Avenue, Hood River, said she had been using medical marijuana since 2007 to treat the pain of fibromyalgia. Trent said prior to that, she had been on 22 kinds of pills and was bedridden. She said once she was able to get away from all the other medications, she was able to resume a normal life.

Steve Schwarzbach, 1726 East 17<sup>th</sup> Street, The Dalles, said it was a fairness issue. He said it was very difficult for some patients to have to travel to metropolitan areas to get their medication. He said the dispensaries were the correct way to provide this medication.

Hearing no further testimony, the public hearing was closed.

#### Council Deliberation

Councilor Spatz said he was concerned that the ordinance language and state law didn't match concerning the duration of a moratorium. He said it wasn't really a moratorium if it could be rescinded. He said the City should analyze options for a local ordinance to regulate dispensaries.

City Attorney Parker said the League of Oregon Cities had determined that cities could rescind an ordinance prior to the date of May 1, 2015, rather that was the longest amount of time the moratorium could be in place. He said if the Council decided not to adopt the moratorium, the City would have no regulations and would need to rely on the state law.

Mayor Lawrence staff should develop regulations regardless of whether a moratorium was approved.

Councilor Dick said he had heard of instances where youth had purchased marijuana from people who received it with a medical authorization. He said many cities were studying the issue and that a moratorium would give staff time to sort out what regulations should be put in place. Dick said he would like to have heard testimony from physicians and downtown business owners.

#### Special Ordinance No. 14-562 Declaring a Moratorium on Medical Marijuana Facilities and Declaring an Emergency

City Clerk Krueger read Special Ordinance No. 14-562 by title.

It was moved by Dick and seconded by McGlothlin to adopt Special Ordinance No. 14-562 by title.

McGlothlin said he agreed with the League of Oregon Cities determination that a moratorium could be lifted prior to the May, 2015 deadline. He said the issue could be re-examined when the applicant received a license from the State.

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It was moved by Spatz and seconded by Miller to amend the motion by adding "subject to being rescinded prior to May 1, 2015 and direct staff to develop regulations".

The motion on the amendment was voted on and carried unanimously, Wood absent.

The amended motion to adopt Special Ordinance No. 14-562 by title only, subject to being rescinded prior to May 1, 2015 and direct staff to develop regulations was voted on and carried unanimously, Wood absent.

### **CONTRACT REVIEW BOARD ACTIONS**

#### **Approval to Purchase Asphalt for Street Maintenance Projects**

Public Works Director Anderson reviewed the staff report. There was discussion regarding whether projects may be re-scheduled in order to get the better pricing. Anderson said even if the order was less than 20 ton, they would still call for pricing to ensure the City was able to get the best price.

It was moved by McGlothlin and seconded by Spatz to authorize the purchase of hot mix asphalt as needed for street maintenance from the lowest cost supplier available at the time of the projects, in an amount not to exceed \$65,212. The motion carried unanimously, Wood absent.

### **ACTION ITEMS**

#### **Approval of Compensation Package for Exempt Employees**

City Manager Young reviewed the staff report.

Mayor Lawrence asked why this would be approved prior to the Budget Committee meetings. City Manager Young explained it was the Council's authority to set wages.

It was moved by Spatz and seconded by Miller to approve an exempt employee compensation package for the 2014-15 fiscal year to include a 2% COLA effective July 1, 2014 and increase the City's contribution toward an employee's insurance premium no more than 8%. The motion carried unanimously, Wood absent.



## DISCUSSION ITEMS

### Discussion Regarding Fort Dalles Fourth of July Funding Request

City Manager Young reviewed the staff report.

Doug Kirchofer, 2670 East 18<sup>th</sup> Street, The Dalles, said the Committee had nearly \$50,000 committed to the event, which included a walk/run, parade, family festival with entertainment, and fireworks display. A diagram of the festival area was provided. Kirchofer said this would be a significant regional event and said the Committee would provide a post-event report to the City Council.

It was moved by Miller and seconded by Dick to approve the \$20,000 funding request and direct staff to prepare a budget amendment for approval at the April 28, 2014 Council meeting.

Councilor McGlothlin said he had been surprised that the City was asked to help fund the event because he had been told it was all to be funded through private donations. He said he would support matching an amount that was also provided by other governmental agencies, such as Wasco County, but that he did not support using tax payer money to fund the event. McGlothlin said if transient room tax fees could be used, he would be more comfortable with it.

City Manager Young said the transient room tax revenues were added to the General Fund, that there was not a separate account just for room tax revenue. McGlothlin asked how much revenue was received in room tax. Young said the upcoming budget included approximately \$550,000.

Mayor Lawrence said the City's ordinance required a minimum of 21% to be used for tourism related items, but the City historically provided much more than that.

Mr. Kirchofer said they were only asking for approximately 3% of the room tax revenue and that the economic return would be at least equal to that.

### Extend Time of Meeting

It was moved by Spatz and seconded by Miller to extend the time of the meeting by 15 minutes. The motion carried unanimously, Wood absent.

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The motion to approve the \$20,000 funding request and direct staff to prepare a budget amendment for approval at the April 28 Council meeting was voted on and carried, McGlothlin opposed; Wood absent.

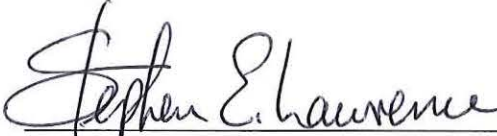
**ADJOURNMENT**

Being no further business, the meeting adjourned at 8:35 p.m.

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Submitted by/  
Julie Krueger, MMC  
City Clerk

SIGNED:

  
\_\_\_\_\_  
Stephen E. Lawrence, Mayor

ATTEST:

  
\_\_\_\_\_  
Julie Krueger, MMC, City Clerk



statutory and regulatory authority to Oregon's cities and counties to impose certain regulations and restrictions on the operation of medical marijuana dispensaries within their jurisdictions, including the option of imposing a temporary ban or "moratorium" for a limited period of time - until May 1, 2015 on the operation and establishment of medical marijuana facilities in their jurisdictions. On April 1, 2014, the Oregon Health Authority filed rules implementing SB 1531.

As of April 11<sup>th</sup>, the Medical Marijuana Dispensary Program has processed 213 of the 313 applications the state had received since March 3, 2014, when the system opened to applicants. Of these, only 42 have been approved for state registration and have been mailed a state license, and may open for business legally only once they have received their state certificates in the mail. The state has been hard at work - it seems that less than 25% of medical marijuana facility applicants have been granted full licenses to operate under the rigorous standards and requirements of the application requirements and rules of the OHA.

Mountain View Naturals LLC, (MVN) is a domestic limited liability company registered as a business with the Oregon secretary of state, and is a pending applicant for a state medical marijuana facility license who is proposing to open a business in the central business commercial district of The Dalles. MVN plans to operate in full compliance with state laws, as well as local law. As such, MVN has yet to open its doors for business, since it is choosing to wait to learn of its ability to operate in full compliance with state and local laws, after hearing from both the state of Oregon's medical marijuana dispensary program, as well as the City of The Dalles with regard to its ability to legally operate and open for business. Of immediate relevance, is MVN's fate with regard to its proposed 'change of use' application filed last week with the Planning Department of The Dalles, concurrently with its state dispensary license application, the approval of both of which are currently pending.

In addition to the dozens of cities that have pursued temporary moratoriums pursuant to SB 1531 and the OHA's new rules, The Dalles is considering its regulatory options at the April 14, 2014 City Council meeting. Of particular concern to MVN and the medical marijuana patient community of The Dalles is the potential adoption of General Ordinance No. 14-1335, which would declare a moratorium on medical marijuana facilities, and declares an emergency.

*Comment*

1. State law does provide guidance as to what constitutes "reasonable regulations" for the purposes of local government adopting an ordinance regulating medical marijuana dispensaries.

SB 1531 provides in Section 2., "Notwithstanding ORS 633.733, the governing body of a city or county may adopt ordinances that impose reasonable regulations on the operation of medical marijuana facilities registered, or applying for registration, under ORS 475.314 that are located in the area subject to the jurisdiction of the city or county. For purposes of this section, "reasonable regulations" includes reasonable limitations on the hours during which a medical marijuana facility may be operated, reasonable limitations on where a medical marijuana facility may be located within a zone described in ORS 475.314, and reasonable conditions on the manner in which a medical marijuana facility may dispense medical marijuana.

MVN wants to provide safe access to patients in a regulated manner, licensed, audited and inspected by the state, as well as by the authorities of The Dalles. MVN also wants crime-free neighborhoods, safe roads, and to keep marijuana out of the hands of children and those not permitted to possess and use medical marijuana pursuant to the laws of the state. A licensed and regulated medical cannabis business is a better policy than requiring patients to enter into an unregulated black market. Furthermore, adopting a temporary ban would send the political

message that The Dalles is opposed to medical marijuana and the rights of patients to safe access.

2. Pursuant to its authority under SB 1531 to reasonably regulate 'conditions on the manner' in which a medical marijuana facility may dispense medical marijuana The Dalles could adopt a marijuana business license ordinance.

Oregon local governments from Marion County to Klamath Falls have considered and have enacted local licensing schemes for regulating marijuana businesses. Some Oregon cities like Keizer have developed local task forces to help craft marijuana-related local regulatory ordinances. Other cities like Portland have chosen to not take regulatory action, perhaps with an understanding that the state laws provide sufficient regulation with regard to medical marijuana facilities. The city of Beaverton drafted a marijuana business license ordinance which it did not adopt, but which MVN considers a model for The Dalles to consider. Adopting a marijuana business license would prevent a potential legal challenge from MVN and likely any other state licensed MMF or applicant, and would provide a new source of revenue, as well as lead to job creation and a diversified, rejuvenated economy for The Dalles.

Assuming that medical marijuana facility businesses are prohibited unless they are licensed, a 'marijuana business license ordinance' would provide The Dalles with a necessary and proper regulatory vehicle to monitor medical marijuana facilities in the short term, as well as legalized adult-use marijuana businesses in the event that Oregon elects to take the route of Washington and Colorado in the not-to-distant future. MVN wants to provide safe access to patients in a responsible, regulated manner. Imposing a temporary ban on facilities will only harm the most vulnerable of patients and will only exacerbate the problems caused by

prohibition. Like alcohol prohibition before it, cannabis prohibition enriches the black market and takes jobs away from law-abiding citizens and revenue from our state. And many patients will either have to go without medicine that improves their lives or be forced to use the black market.

While those that may be fearful of licensed facilities have legitimate concerns, the concerns about the potential for increased crime, less safe roads and intoxicated drivers, and more marijuana finding its way into the hands of children and those not permitted to possess medical marijuana under the law are largely unfounded by the facts and the experiences of other states. Please consider statistics and studies of other states, listen to the concerns of patients and providers and think about the consequences of pushing people into the unregulated black market. After a careful consideration of the facts and the plight of patients, MVN hopes that the City Council will choose regulation over the black market of prohibition.

3. The Very Few Patients In All of Wasco County Deserve Safe Access.

The Oregon Medical Marijuana Program keeps statistics on the number of medical marijuana patients in each county. According to the website's data, (available at <https://public.health.oregon.gov/diseasesconditions/chronicdisease/medicalmarijuanaprogram/pages/data.aspx>) as of April 1, 2014, Wasco County has a total of 384 patients.

Given the minute population of patients and the size of the market for cannabis medicine in The Dalles, the issue of dispensaries popping up on every available street corner does not seem to be an incredibly dire or pressing one. Given simple economics and the pragmatic reality of supply and demand, the hypothetical disaster situation does not seem likely to occur in The Dalles or any city in Wasco county for that matter. It is simply unlikely that small demand of the

legal market could bear the economics of over-supply for long, especially in light of the high fixed and variable costs that go along with operating a legally compliant MMF in Oregon.

4. The Dalles cannot rely on federal law to avoid complying with state law.

The federal government treats medical marijuana and recreational marijuana the same way as a matter of federal law. Under federal law, which has no medical marijuana exception, there is no legal distinction between medical marijuana and recreational adult use marijuana, such that these two distinct and logically separate issues at the state law level – the issue of outright legalization and the issue of medical marijuana regulation– are thus often conflated.

Under Oregon law, HB3460 (2013) created a regulated distribution system for excess medical marijuana(the amount cultivated in excess of the patient’s needs) by allowing patients to authorize their growers to distribute the patient’s excess medical marijuana to licensed medical marijuana facilities and be fully reimbursed by them. MMFs, in turn, are authorized by this law to be fully reimbursed by patients and their designated primary caregivers.

MVN relies principally on the arguments discussed in the attached memorandum from Legislative Counsel to Representative Peter Buckley for the proposition that the County is unable, legally, to do this. Additionally, MVN notes that recently the Michigan Supreme Court in *Ter Beek v. City of Wyoming* (February 6, 2014) reached the same conclusion regarding a municipal ordinance which prohibited the use of medical marijuana in the municipality.

Although *Ter Beek* concerned the use provision of the Michigan Medical Marijuana Act, the Oregon corollary of which the Oregon Supreme Court had held preempted in the *Emerald Steel Case*, the Michigan Supreme Court explained:

Furthermore, we have misgivings, mildly put, about Emerald Steel’s reasoning. In particular, in finding preemption, the Oregon Supreme Court characterized *Michigan Cannery* as a case of “state law permit[ting] what federal law prohibits,” and reasoned by analogy that “[a]ffirmatively authorizing a use that federal law prohibits stands as an



obstacle to the implementation and execution of the full purposes and objectives of the” CSA. *Emerald Steel*, 348 Or at 177-178.

*Michigan Cannery*, however, does not stand for the broad proposition that, if a state law permits something a federal law prohibits, it is preempted. Instead, *Michigan Cannery* involved a state law that not only permitted what federal law prohibited, but also required that certain federal guarantees be denied.

Indeed, the Oregon Supreme Court has since moderated this aspect of its analysis, clarifying that “*Emerald Steel* should not be construed as announcing a stand-alone rule that any state law that can be viewed as ‘affirmatively authorizing’ what federal law prohibits is preempted.” *Willis v Winters*, 350 Or 299, 310 n 6; 253 P3d 1058 (2011).

*Ter Beek*, page 18 at fn 6.

A copy of the opinion is submitted with these written comments.

5. MVN is concerned that it may have been denied its due process rights under state law as well as The Dalles Comprehensive Land Use and Development Ordinance (LUDO), specifically with regard to 3.010.020 and 3.010.035 and its right to the ordinary city planning and development processes, notwithstanding the fact that The Dalles by and through its staff, might have been planning to adopt a moratorium.

After requesting available times and dates to schedule a pre-application conference with the planning department of the City of The Dalles last month, by and through their legal counsel, a proposed change of use form, instead of getting to schedule a pre-application planning meeting with the Community Development and Planning Department. MVN was e-mailed a naked ‘proposed change of use’ application form by the senior planning manager, Dawn Hert, a week after originally calling to request a pre-application process, in accordance with the standard procedures for siting a business in The Dalles. Should the City approve this ordinance, MVN would raise these and related arguments before the Land Use Board of Appeals.

Insofar as future regulatory actions are concerned, MVN is ready and willing to work with City Counsel, Community Development and Planning, City Council, and other community partners to come up with reasonable time, place and manner regulations for the operation of MMF's upon which all could agree. MVN assumes that the City, like MVN, wants to avoid litigation if at all possible. Engaging in this conversation is the clear path towards achieving this goal.

Respectfully submitted this 14<sup>th</sup> day of April, 2014.

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Bradley M. Steinman, OSB #136110  
Attorney for Mountain View Naturals, LLC