City of Trinidad

Posted: Friday, August 20, 2010

NOTICE AND CALL OF A REGULAR MEETING OF THE TRINIDAD CITY COUNCIL

The Trinidad City Council will hold Second Monthly Meeting on

WEDNESDAY, AUGUST 25, 2010 at 7:00 PM

in the Town Hall at 409 Trinity Street

I. CALL TO ORDER/ROLL CALL

II. PLEDGE OF ALLEGIANCE

III. CLOSED SESSION
There is no Closed Session planned for this meeting.

IV. APPROVAL OF AGENDA

V. APPROVAL OF MINUTES
- August 11, 2010

VI. COUNCIL MEMBER REPORTS, INCLUDING COMMITTEE ASSIGNMENTS

VII. ORAL STAFF REPORTS
- City Manager
- Specific Department Reports

VIII. ITEMS FROM THE FLOOR
(Three (3) minute limit per Speaker unless Council approves request for extended time.)

IX. CONSENT AGENDA
There are no Consent Agenda items for this meeting.

X. DISCUSSION/ACTION AGENDA ITEMS
1. Award of Bid for Saunders Park Construction
2. Report on ADA Compliance in Trinidad
3. Discussion of Vacation Dwelling Units Regulatory Ordinance

XI. COUNCIL, STAFF, or PUBLIC REQUESTS FOR FUTURE AGENDA ITEMS

XII. ADJOURNMENT

(707) 677-0223 • 409 Trinity Street • P.O. Box 390 • Trinidad, CA 95570 • Fax (707) 677-3759

APPROVAL OF MINUTES FOR:

August 11, 2010 CC:

Supporting Documentation follows with: 11 PAGES

City of Trinidad

MINUTES OF THE REGULAR MEETING OF THE TRINIDAD CITY COUNCIL
WEDNESDAY, AUGUST 11, 2010

I. CALL TO ORDER/ROLL CALL

- Mayor Binnie called the meeting to order at 3:00PM. The Council then recessed at 5:45pm, and reconvened at 7:00pm for a second session. Council members in attendance: Morgan, Ratzlaff, Binnie, Bhardwaj, Fulkerson.
- City Staff in attendance: City Manager Steve Albright, City Clerk Gabriel Adams, City Planner Trever Parker, and City Attorney Paul Hagen.

II. PLEDGE OF ALLEGIANCE

III. ADJOURNMENT TO CLOSED SESSION – No closed session scheduled.

IV. RECONVENE TO OPEN SESSION

V. APPROVAL OF AGENDA

Motion (Fulkerson/Ratzlaff) to approve the agenda with the following changes:

- *Add emergency agenda item related to the appointment of City Council candidates and cancel the November 02, 2010 election.* **Passed unanimously.**

VI. APPROVAL OF MINUTES

July 14, 2010 cc

Motion (Fulkerson/Bhardwaj) to approve all the minutes as written. **Passed unanimously.**

VII. COMMISSIONERS REPORTS

Binnie: Nothing to report.

Bhardwaj:

- **Planning Commission**: Summarized the July Planning Commission meeting actions.

Morgan: Nothing to report.

Fulkerson: All committee meetings attended focused discussions primarily on budgets for upcoming fiscal year.

VIII. STAFF REPORTS

City Manager - Albright: Summarized staff activities report and highlighted various other accomplishments. Also added the following information on current projects:

IX. ITEMS FROM THE FLOOR

(Three (3) minute limit per Speaker unless Council approves request for extended time.)

Jim Cuthbertson – Trinidad

The Van Wycke trail is failing again. Requested future Council action to repair. The rest of the City's trails need to be maintained. The City should hire another full-time Public Works employee if necessary.

X. CONSENT AGENDA

1. Staff Activities Report through July, 2010
2. Financial Status Reports for June, 2010
3. Resolution 2010-09 Authorizing an Agreement for the Trinidad Stormwater Drainage Improvement Project
4. Resolution 2010-10 Authorizing an Agreement for the Trinidad Pier Reconstruction Project
5. Law Enforcement Update
6. Annual Wildfire Protection Contract with CalFire

Motion (Fulkerson/Bhardwaj) to approve the consent agenda as written. **Passed 5-0.**

XI. AGENDA ITEMS

1. Planning Application 2010-06 Regarding Changes to the Conditions Placed On the Trinidad Bay Bed and Breakfast

- *Councilmember Morgan reccused himself from the discussion and sat in the audience.*
- *Councilmember Bhardwaj abstained from the discussion for personal and ethical reasons.*

City Manager Albright and City Planner Parker explained that in 1985, the Trinidad Planning Commission and the City Council approved a request to establish a bed and breakfast inn at the residence at 560 Edwards Street. The approval included two conditions, and the current owner has filed an application requesting that those conditions be removed.

During the public review at the Planning Commission at its July, 2010 meeting, it was pointed out that, since the original approval and conditions were placed by the City Council, it would be appropriate for the current City Council to either remove, modify, or confirm the conditions that were placed in 1985.

The Planning Commission did complete its discussion of the item and agreed with the applicant to remove the conditions placed in 1985. In their place, the Commission recommended three new conditions:

1. The property owner shall have the septic system inspected annually during the wet weather season and the results provided to DEH each year. This inspection schedule may be modified under implementation of the City's OWTS Management Program with written approval from DEH.

2. The owner recognizes that if the septic system fails, steps will be taken by the City and/or DEH to rectify the situation, which may include suspension of the Use Permit or temporary closure of the business until the system is repaired to the satisfaction of DEH.

3. The next annual inspection, to occur in the upcoming wet season, shall conform to the requirements for a performance inspection under the City's OWTS Management program verifying the function of the entire system, including the leachfield and confirming the presence of absence of an effluent filter. If an effluent filter is not already installed, one shall be installed at the time of inspection.

Council questions/discussion included:
Fulkerson: The staff report states that the B&B consumes similar amounts of water as the Heller residence and the apartment complex. Is this true?

Morgan: Noted that the conditions placed on the B&B in 1985 should be removed because they place an undo burden financially on the business, and that the new conditions go above and beyond the current oversight that the City has on other properties.

City Planner Parker: According to the City's LCP, a decision made regarding this discussion is not appealable to the Coastal Commission. However, the Coastal Commission's regulations conflict with the City's LCP in that they allow for appeals on any project within 300 feet from a bluff.

Binnie: Noted his continued concerns for bluff stability, water quality in Trinidad Bay, and the lifespan of the B&B's septic system if continually overloaded. **Parker** argued that when the conditions were placed on the property in 1985, the County did not consider septic systems to be permanent solutions to wastewater treatment. However, over time opinions regarding septic systems have dramatically changed. She also argued that the intent of the conditions placed on the property was to protect the septic system, not the bluff.

Public comment included:
Pat Morales – Trinidad
Began her presentation by questioning Morgan who was sitting in the audience. Morgan refused to respond. Morales insisted he leave the room. Mayor Binnie disagreed, and asked Morales to proceed. She criticized City Planner Parker's response to the appealability of the project to the Coastal Commission. She argued her case against removing the conditions with supporting documentation discovered in City files and through the County Department of Environmental Health dating back to the 1980's. She addressed bluff stability issues, doubted Steve's Septic Service's credibility, and insisted that the B&B system will ultimately fail if the conditions are

removed. She also insisted that the city require a video inspection of the leachlines, commented on Morgan's questionable financial situation, and argued that additional conditions be placed on the property.

Steve Ruth – Trinidad
Why have conditions if they're not enforceable?

Jim Cuthbertson – Trinidad
Energy efficient washing machines are available these days that use very little water. What are we gaining by restricting one property and not all others?

Mareva Russo – Trinidad
I believe that the condition was originally placed on the B&B to keep commercial water flows from damaging the bluff.

Brad Twoomey – Trinidad
Speculated as to where the septic condition came from and noted that the change from a residence to a B&B was extremely controversial in the 1980's.

Patti Fleschner – Trinidad
Mr. Morgan should be able to decide what's best for his property and would not harm or endanger it or the bluff. This is a wonderful property. The neighboring property has been a blight on the bluff now for years but no conditions have been placed on it. The B&B is beautifully maintained, and I support removal of the conditions.

Kim Tays – Trinidad
I've examined the slope below the bluff at Indian Beach below the lighthouse. There is a lot of water leaching out. More than ever before. The City needs to deal with this problem. Excessive groundwater saturation is the biggest threat to the bluff. Morgan should try a linen service for 1 year. He hasn't given that possibility a chance.

Morgan: The septic system is working extremely well as indicated by the inspection report. I also have a greywater system installed to protect the system from undo overloads. This is a very busy season for me, but winter is not a problem. I have no concerns about the system's ability to function properly. A linen service is not an option for both economic reasons and convenience.

Council comments:
Fulkerson: This is a very difficult situation for us. The points that have been made that resonate with me are the Planning Commissions recommendations, the Health Department's concerns, and bluff stability concerns. Sungnome Madrone earlier brought up the stormwater management grant that the city is expecting to be funded soon. Maybe Morgan should consider withdrawing his application at this time and depending upon the results of future water quality testing in the area near the B&B, consider bringing it back if the results prove negative impact associated with septic's in the area. We must treat everyone equally, and hold individuals to their agreements. For these reasons, I recommend upholding the current standards and conditions originally placed on the property.

Binnie: My comments would be the same no matter who owned the property. I agree with Fulkerson.

Ratzlaff: Let's wait for a groundwater study in the area before we remove the conditions. However, I understand that comments or concerns made many years ago may not be applicable or the same today.

Motion (Binnie/Ratzlaff) to deny Morgan's request to have the conditions removed, and maintain the current requirements and conditions as placed on the B&B in 1985. However, if future water quality testing on the bluff yields negative septic impacts then the city may reconsider the request. Conditions will be enforced based on trust and good faith that the owner will comply.
Passed 3-0-1. (Bhardwaj – Abstained).

2. City Comments on the Moss Subdivision
City Manager Albright and City Planner Trever Parker explained that the public notification for the preparation of a Draft Supplemental Environmental Impact Report (DSEIR) for the Moss subdivision was published in mid-2009. The DSEIR was prepared by LACO Associates under contract to the Humboldt County Planning

Department over the past year, and the draft report was made available for public comment on July 8, 2010. The 45-day comment period ends on August 23, 2010.

The City of Trinidad has a long history of commenting on the Moss Subdivision. As now proposed, the project would subdivide a 94 acre parcel into four 20+ acre parcels. The DSEIR specifically looks at the proposed project's environmental impacts on the City of Trinidad's water supply and the impacts on the coastal cutthroat trout.

Staff is offering to the Council areas of potential comments through a memo from Trever Parker. The memo focuses on 4 concerns:

- Future uncertainties in terms of water use
- Future development and increased water demand
- Water quality
- Preferred Alternative #3 – Clustered Development
-

With Council and public input, the general content of this memo is proposed to be the basis of an eventual formal letter of comment from the City of Trinidad.

Public comment included:
Robert Vogel – Trinidad Area
Introduced Sungnome Madrone and previewed the presentation he was about to give.

Sungnome Madrone – Trinidad Area
Presented his analysis of the project and suggested recommendations as listed in a document passed out to Council and staff. The presentation supported Parker's comments and suggested the following additions:

- Easements should be established that provide access to the storage tanks, pumps and flow meters for inspection purposes, and that assessments be established to cover the cost of inspection and evaluation.
- Rain & fog water collection systems should be added to the water storage mitigation measures EIR MM2.
- Residential development rights on the 84 acre remainder parcel be converted to an Open Space Easement with restrictions on residential development and forest cover removal.
- Easements to establish a trail from Fox Farm Road to Luffenholtz Creek via the existing rocked road and bridge over the North Fork should be established as part of the local coastal trail network identified for the community.

Public comment included:
Alison Jackson – Moss Attorney
This project has been reviewed at great length. Water quality concerns have been reviewed, discussed, and mitigated.

The Council thanked supported both the concerns raised by staff and Madrone. They thanked Madrone for his thoughtful, focused presentation.

Motion (Fulkerson/Bhardwaj) to send the City Planner's prioritized comments regarding the Moss Subdivision, signed by Mayor Binnie, to the County Planning Department for consideration with additions suggested by Sungnome Madrone. **Passed unanimously**.

3. Council Policy for Commenting on County Land Use Issues
City Manager Albright explained that this agenda item was continued from the Council meeting on July 14, 2010. In June, the City Council again discussed how and when the City of Trinidad should comment on land use proposals in the adjacent County areas. Staff had proposed written policy direction. After lengthy discussion, the Council requested that staff return with a more simplified approach to the policy statement.

Two basic questions are addressed in the proposed policy:

- What type proposals being made to the County merit comment from the City of Trinidad?
- Who should comment on a proposal (staff, Planning Commission, or City Council).

The City of Trinidad receives a limited number of referrals for comment on land use or environmental review actions that are within the County's jurisdiction. There is no mandate that the City respond to a notification of a review period, and in fact most notification that have been received in the past at Town Hall have not generated a formal response from Trinidad.

Some proposed actions that are within the County's jurisdiction are still very important to the city of Trinidad. These may rise to a level where the City may want to, at minimum, point out to the County that some potential impact needs to be addressed in the County's review process. For example, a project which may impact drinking water quality or quantity, surface drainage, traffic, municipal services, or other environmental issues may deserve attention from the City. On the other hand, a project proposal which is likely only to impact the specific property, such as a variance from a side-lot setback requirement, would have minimum if any impact on the City of Trinidad.

Most jurisdictions leave the determination of whether or not to comment up to its professional planning staff. It is rare to see one jurisdiction actively support or oppose the actions of another jurisdiction unless a highly controversial proposal is involved. That has been the case only two times in the last three years in Trinidad, so this review and comment process is not likely to happen often. If the review process is intended to bring to light project impacts and potential problems, then the comment period is the City's opportunity to do just that.

The Council discussed the proposed policy at its July 14 meeting but chose to delay action. One change has been made to the proposed policy due to that discussion and public comments, and that change is shown in **BOLD** in the policy.

Public comment included:
Robert Vogel – Trinidad Area Resident
Added 2 amendments to the revised proposal. Suggested adding "Planning Commission Chairman" to sections of the proposal where "City Manager" was given the discretion to determine how to address or administer the referral to Planning Commission or Council authority.

The City Council unanimously supported the changes.

Motion (Fulkerson/Ratzlaff) to approve the amended policy, including additional changes as suggested by Robert Vogel. **Passed unanimously.**

Recess for Dinner Break. Reconvene in Town Hall at 7:00 pm

EMERGENCY ITEM ADDED:

3.5 Discussion/Decision regarding Resolution 2010-11; A Resolution of the City Council providing for the appointment to the offices that were to be elected on Tuesday, November 02, 2010
City Manager Albright explained that this item is proposed to be added to the Agenda as an Emergency Item because the issue arouse after the posting on the Agenda and it requires Council action prior to the next scheduled meeting.

There are three Council positions up for election in Trinidad in 2010. As of the deadline of November 06, 2010, three persons had filed for the position and were certified as qualified by the County Elections Manager. If the election scheduled for November 02, 2010, proceeded with the three candidates, it would cost the City approximately $1200 to participate in the election. In addition, each candidate would need to pay $475 if they wanted a 200-word statement to be in the ballot.

The candidates are Tom Davies, Dwight Miller, and Kathy Bhardwaj.

There was no public comment.

Motion (Fulkerson/Morgan) to approve Resolution 2010-11. **Passed unanimously.**

4. Public Hearing: Annual Water Rate Increase

City Manager Albright explained that in 2003, the Trinidad City Council approved a procedure for annual increases to the City's Water Rates. The rates include the minimum charge for a customer with a water meter (hooked up to the system), the consumption rate for water used, and the cost to a new customer for new service. At that time, the Council established the annual increase in the Consumer Price Index (CPI) as published in May of that year as the automatic annual increase.

After a five-year period, that automatic annual increase must be approved by the Council on an annual basis after conducting a public hearing.

The unadjusted annual (previous 12 months) CPI for April, 2010 was 2.2%. Using that number as the increase factor, the new rate proposed to be effective on September 1, 2010 for customers inside the City limits would be as follows:

	Current*	**New***
Minimum Charge:	$34.23	**$34.98**
Cost/100Cubic Feet:	$ 2.46	**$ 2.51**
New Meter Charge:	$4,500	$4,500

* Includes the first 300 cubic feet of water consumed. Customers outside the City limits still are charged 50% higher rates.

Public comment included:

Shirley Laos – Trinidad Rancheria

Reminded the Council of the Rancheria's continued contribution to the City's water supply infrastructure, and asked them to consider the contribution when re-evaluating water rates for the Rancheria residents.

Motion (Ratzlaff/Fulkerson) to adopt the revised water rates to go into effect on the next billing cycle.
Passed 4-0. Morgan was absent from this discussion and arrived late.

5. Public Hearing: Proposed Ordinance 2010-0-3 Regarding the Accessory Dwelling Unit Ordinance

City Manager Albright explained that the proposed ordinance was prepared and considered by the Trinidad Planning Commission in 2008. It went through extensive review at the Planning Commission level and was forward for City Council consideration nearly over years ago. At the time, it was agreed that the Council not consider the ordinance until work had been completed in preparing and adopting the Onsite Wastewater Treatment System Ordinance because the two are related. That was adopted by the Council several months ago. The Ordinance essentially recognizes the State of California's authority to encourage ADU's but also identifies reasons why communities with septic systems as means of wastewater disposal have additional needs with regards to development infill.

Council questions:

Bhardwaj: Concerned with non-conforming ADU's and their ability to be brought up to code, and what if they were unable to be legitimized.

Binnie: Identified typo's and other various edits for correction.

Public comment included:

Brad Twoomey – Trinidad

Concerned with ADU's and their compatibility with the community character. Also concerned with new setback standard for ADU's in public alleys. He argued that this change would only affect 30 parcels in town, and how that was an unfair advantage given to a small number of properties. He also noted various defects in the ordinance such as parking issues, congestion, and staff having the authority to determine the community character.

Mareva Russo – Trinidad

Echoed Twoomey's comments.

Council comments included:
Fulkerson: I like this ordinance. I believe in affordable housing and smaller residential units that bring character to the village that has been lost over time with the construction of larger units. However, whoever is monitoring this ordinance has a huge responsibility. The must have a unique set of skills including, but not limited to style and a keen sense of design since such development is at their discretion according to the ordinance. **Bhardwaj** agreed.

Motion (Bhardwaj/Fulkerson) to conduct the public hearing to consider proposed Ordinance 2010-03, Accessory Dwelling Unit Ordinance; and Adopt Ordinance 2010-03 as amended by action of the City Council. **Passed unanimously**.

6. LACO Report on the Tsurai Study Area Property Damage
City Manager Albright explained that as a result of the recent cutting of trees and shrubbery on City property along the Old Wagon Road Trail, city staff requested and received a proposal from LACO Engineers, and in July the Council authorized a not –to-exceed contract of $4,200. The scope of work was to be an assessment of the damage and proposed emergency actions to address the damage prior to the next rainy season. The product will be an assessment of the damage (plant, geologic, and slope stability), recommendations for short-term actions to stabilize the area, and a format that will allow the City to immediately contract for work on the site.

A draft report was provided to staff on July 29, 2010, and the draft report was extensively reviewed by staff and in a meeting on August 3, 2010 with the multiple concerned parties (Tsurai Ancestral Society, Yurok Tribe, and the California Coastal Conservancy. Councilmember Mike Morgan and City Manager Steve Albright represented Trinidad. The report will be presented at the Council Meeting by Mike Nelson, LACO Planning Director.

In consideration of the emergency nature of this project, the most expedient way to proceed may be by authorizing the City Manager certain authority:

First, instead of pursuing a bidding process to perform the work, the Council could authorize a "sole source" contract arrangement for the actual work on the ground. A "sole source" in this case would mean that the City Manager would negotiate with a qualified business to do the work within a certain budget and in conformance with the recommendations in LACO's report. It would avoid the delay of having a bid process when public funds are involved.

Second, the Council could authorize a limit to the expenditure that could be negotiated in the sole source contract. Since the actual amount is unknown and would not be determined by a formal bid process, this action would enable the City Manager to negotiate for the work up to a certain funding level and to obtain a contractor who could proceed quickly with the work.

It is understood that the City Manager would continue to work with the other interested parties on this project in the selection of some firm to do the work and in coordinating access to the site, cultural monitors, security, fencing, etc.

City staff is keeping a record of documented costs incurred on this effort in the case that full restitution from the responsible parties in this incident can be pursued.

Public comment included:
Mike Nelson – LACO Associates
Explained the results of the report and scope of work proposed to reduce erosion during the upcoming winter rainy season. He also noted that a cultural monitor has been recommended but that the costs associated with the monitor has not been included in the construction estimate.

Steve Ruth – Trinidad
Questions about coco matt, planting of native species, and eradicating invasive plants.

Sungnome Madrone – Trinidad Area
Apologized in advance if his comments were offensive to anyone, but that clearing the site was wrong. It needs erosion control and invasive species control, and that the plan doesn't match the site. Coco matt is not good for

the site, and that laying down the fabric will create a major impact to the site. He suggested that the Yurok tribe perform the construction, not a contractor. The plan should be re-evaluated, and the cultural sensitivity of the site should be considered. Resident **Tom Odom** agreed with Madrone.

Cyndi Lindgren – Tsurai Ancestral Society spokesperson
On behalf of the Tsurai, we asked for LACO to develop this plan and support their work. They have been involved with this site for many years and on many occasions. We recommend the following actions:

- Remaining trees should be hauled off and chipped.
- Employ the services of a botanist immediately.
- Support NRM as contractor to execute construction immediately.
- The split-rail fence proposal is an excellent idea.
- Plant vegetation along the trail that is consistent with the settlement agreement.
- Recommend Joe Lindgren to serve as cultural monitor for the project.

Troy Fletcher – Executive Director of the Yurok Tribe
The Yurok Tribe would like to be more involved in this project. He requested that no action be taken on this agenda item until the next three items are heard since they are all related. Insisted that the Yurok Tribe be included in all discussions related to this site.

Glenn Saunders – Trinidad
Hire locals.

Axel Lindgren III – Tsurai Ancestral Society Chairman
My response to the comments made by Troy Fletcher: Yes, this in Yurok Country. The Yurok Territory historically began 5 miles north of Klamath from Damnation Creek to the southern boundary of the Little River. Tsurai was the southernmost village in the territory. The Big Lagoon tribe would never tell Tsurai how to conduct their business or tell them how to live. Troy, do not come to our house and tell me what color to paint it.

The Council agreed to hear the next three items before making decisions. At the conclusion of the hearing, the following comments were made regarding this item:

Council comments included:
Morgan: I see 2 issues that I'd like to focus on – long-term re-vegetation and resolving the immediate trauma to the site regarding possible erosion issues. Concerned with impacts to the site regarding fabric installation as well. **Binnie** agreed.

Fulkerson: I don't see the need to micro-manage this project any further. It has received the blessing of the Tsurai. Let's proceed as recommended.

Motion (Fulkerson/Ratzlaff) to:

1. *Declare the project an emergency based on the following findings: a) To prepare site to withstand a high level of erosion during winter storms, b) to secure the site for public safety reasons, and c) to protect private property at the base of the slope from erosion damage and/or possible landslides.*
2. *Authorize work to be supervised in consultation with the Yurok Tribe and Tsurai Ancestral Society.*
3. *Authorize the City Planning Staff to secure an after-the-fact coastal development permit.*
4. *Authorize the City Manger to select a firm (contractor) and negotiate a sole source contract tom implement the LACO recommendations; and*
5. *Authorize the expenditure for the sole source contract not to exceed $15,000.*
   Passed unanimously.

7. Authorization for the City Attorney to Initiate Civil Proceedings to Obtain Full Restitution for City Costs Related to the Vegetation Cutting Incident
City Manager Albright explained that Mayor Binnie requested that this item be placed on the agenda to discuss potential strategies, including legal action, to recover City costs.

City Attorney Hagan explained that he has been in contact with the District Attorney regarding this incident. The Police report has been sent to the D.A. and is being reviewed. Regarding further prosecution, since criminal litigation is still possible or pending, the Pennisi's attorney Tim Wychel will request a stay if civil charges are filed. However, the D.A.'s direction has an enormous amount of influence on how we should proceed. Additionally, it would be best for the D.A. to involve the City as much as possible in the process. I would request a global resolution to the matter that would resolve all aspects, both civil and criminal. It is best if all parties communicate.

Fulkerson: I would like Hagan to be prepared and equipped for whatever lies ahead, and support pursuing restitution that covers all costs associated with this incident. The city should be fully reimbursed. **Bhardwaj** agreed that taxpayers should not bear the burden for this incident, and that the City Attorney's hands should not be tied. **Ratzlaff** agreed.

Public comment included:
Thomas O'Rourke – Chairman of the Yurok Tribe
The Yurok Tribe represents many tribal members and many people. The tribe intends to prosecute as well, and seek restitution for cultural damages. We will also contact the Coastal Commission regarding the incident. I look forward to working with the Council to resolve many complex issues that have been raised as a result of this incident. Thanked the Council for taking all the agenda items as one before making a decision.

City Manager Albright noted that he has been in close communication with the Coastal Conservancy, & Commission, and that they are fully aware of the issue.

Kim Tays – Trinidad
Requested that punitive damages also be sought in a civil lawsuit. Concerned that the damage done and cost to repair the site is far less than the increase in value to their property as a result of a premium view created. This is vandalism and the Pennisi's should be punished.

John Corbett – Yurok Tribe
Concerned with a global settlement. Suggested getting the Coastal Commission involved to alleviate the City of bearing the entire burden of the suit. Agreed with Tays that light treatment of the Pennisi's would not be justice.

Hagen assured the Council that a global settlement discussion would include consultation with attorney's from the Yurok Tribe, Tsurai, and State of CA.

Motion (Ratzlaff/Bhardwaj) to authorized the City Attorney to prepare for potential litigation related to the incident and consider recommendations of the Attorney regarding a Global Settlement.
Passed unanimously.

8. Discussion item: Removal of a Council Appointee to the Planning Commission.
City Manager Albright explained that Planning Commissioner Sam Pennisi submitted a letter of resignation on Wednesday, August 04, 2010.

Motion (Fulkerson/Bhardwaj) to accept Pennisi's letter of resignation and proceed with recruitment and notification requirements to solicit candidates for his replacement, with a filing deadline of August 29 and recommendation to be made to Council at the first meeting in September. **Passed unanimously**.

9. Proposed Property Transfer of the 12.5 Acres Tsurai Management Area
City Manager Albright explained that this item was continued from the July 14, 2010 Council Meeting. Representatives from the City, the Yurok Tribe, the Tsurai Ancestral Society, and the California Coastal Conservancy all worked hard in 2008-2009 to agree on transferring the 12.5 acre site to the Yurok Tribe. By the end of the summer last year, the strategy and the agreements for transferring the property were nearly complete and in place for presentation to the various governing Boards. But the process got stalled.

The staff is pleased to report that the parties are ready to move forward. The City and the Yurok Tribe, who are the principal parties in the real estate transaction, are prepared to proceed and take the transfer documents for public review and action. Those documents are a Lease and a Irrevocable Transfer Agreement. The Lease will

enable almost immediate transfer of responsibility for the property to the Tribe, while the Irrevocable Transfer Agreement will be the ownership transfer document that can be finalized as soon as certain property boundary and subdivision issues are settled.

At this time, the attorney representing the Tsurai Ancestral Society, Christine Williams, has requested that the City Council delay any further transfer discussions until the brush-cutting incident is resolved.

Staff suggests that, if the Council chooses to discuss this item and proceed with the negotiations with the Yurok Tribe, then another daytime "workshop meeting" could be set between the two meetings to solicit public input.

City Attorney Hagen explained the Yurok Tribe, City, and Coastal Conservancy agreed to proceed with the transfer last year. Within that time, the process was stalled. The brush-cutting incident occurred, and triggered the transfer discussions back on the agenda. We are now where we were 1 year ago in June. The incident was a tragedy, but it kick-started the discussion.

The 2 documents (Lease and Option to Transfer) are back on the table. The 2005 Settlement Agreement with John Frame states that if the City and Tribe agree to transfer or lease, the Coastal Conservancy has approval authority. The Tsurai signed that document but they have no approval authority. We should, however, keep them included and informed in the process. Vegetation management is at the core of the Tsurai Study Area Management Plan approved by the Council in 2007, but it is only a plan to make a plan. The transfer documents obligate the Tribe to move forward with a vegetation management plan in accordance with the Tsurai Study Area Management Plan. Buttoning up the incident site to prevent erosion is the priority, but this progress on this issue is up to the Council.

Public comment included:
Thomas O'Rourke – Chairman of the Yurok Tribe
Both the documents are on my desk and under serious consideration by the Tribe.

John Corbett – Yurok Tribe
It could take up to 5 years to get through the State maze once the transfer documents are signed. The fewer parties involved the better. So, the lease option was created and designed to ease the parties into the relationship and set the City at ease knowing progress would be made while the transfer documents were being reviewed by the State. Then came the Tsurai Study Area Management Plan. The Yurok Tribe became concerned when the lack of vegetation management was initiated by the City. A vegetation management plan will likely relieve many of the City's concerns with regard to the pressure residents put on the Council to maintain the vegetation. Of all parties equipped with the resources to manage this property, the Yurok Tribe is the one and prepared to embark on such responsibility. Vegetation management, signage, etc., will calm many residents of the City concerned with viewshed impacts.

Cyndi Lindgren – Tsurai Spokesperson
Read the letter from Tsurai Attorney Christine Williams dated July 28, 2010 regarding re-opening the discussion regarding site transfer. The letter essentially requested that no further transfer discussions proceed until the clear-cutting incident was resolved and all interested parties were satisfied.

Axel Lindgren III – Tsurai Ancestral Society Chairman
When my father passed away, he was still working on this project. In 2000 I asked the Yurok Tribe to assist Tsurai in securing this property. At one time we negotiated an $80,000 purchase price, and at another time a $1.00 transfer. We're asking for the process to slow down at this time until all parties have a chance to get caught up and resolve our differences. There have been discussions and meetings that Tsurai has not been included in.

Kim Tays – Trinidad
On behalf of the trees, I ask that they be spared if a vegetation management plan is developed.

No formal decision made regarding the transfer of property. However, by consensus the Council concluded that the City Manager shall coordinate a meeting with all interested parties a to be held prior to the first regular meeting in September. If a conclusion can be reached and differences resolved as a result of that meeting, the City Manager is authorized to schedule a public hearing workshop to inform the public of the property transfer details. Workshop tentatively scheduled for some time in September.

XII. COUNCIL REQUEST FOR FUTURE AGENDA ITEMS

XIII. ADJOURNMENT

- **Meeting ended at 9:55pm.**

Submitted by:

Gabriel Adams
City Clerk

Approved by:

Stan Binnie
Mayor

DRAFT

AGENDA ITEM #1

SUPPORTING DOCUMENTATION FOLLOWS WITH: 3 PAGES

1. Award of Bid for Saunders Park Construction

DISCUSSION/ACTION AGENDA ITEM X.1
Date: August 25, 2010

Item: **ACCEPTANCE OF BID AND AWARD OF CONTRACT FOR SAUNDERS PARK PROJECT**

Background: The City received grant funding from the State of California's Department of Parks and Recreation under two programs: Proposition 40 Per Capita Grants ($220,000); and the Roberti-Z'berg-Harris Nonurban Needs Basis (a $70,000 competitive grant. Between these two sources, $113,000 was allocated and approved for the Saunders Park project, and another 33,737 has not yet been allocated.

Last year, the City contracted with Freeman Architects to complete the design of the park, and the same firm will also be performing construction management.

The project was announced for public bidding on August 15 and again on August 22nd. A pre-bid conference was held on August 18, 2010. Since this meeting packet will be delivered prior to the final bid submittal date of August 24, 2010, staff cannot yet report how many qualified bids were received nor make a recommendation on awarding the bid.

The low responsive bidder is _____. The firm will be using _____ named sub-contractors: _____. The low bid submitted was $_____ .

Staff Recommendation: Award the construction project for the Saunders Park Construction Project to _____for $_____, and authorize the City Manager to execute a contract with _____on behalf of the City of Trinidad.

Attachments: Advertisement for Saunders Park Project in the 8/15/10 Times Standard.

INVITATION FOR SEALED BIDS

Trinidad Saunders Park Project

The City of Trinidad will be accepting sealed bids for the construction of Saunders Park in Trinidad. This project is funded by the State of California's Park Bond Programs.

The work consists of the furnishing of all labor, plant, equipments, and supervision for the construction of the Project. It generally includes the construction of access sidewalks, planters and benches, a gazebo and two pergolas, landscaping and irrigation systems, drainage, and a bocce ball court.

A conditional or qualified bid will not be accepted if it modifies the Plans or Specifications or method of work. A pre-bid conference will be held on August 18, 2010, 9:00 am at the Trinidad Town Hall, 409 Trinity Street, Trinidad, CA, 95570. Copies of the Plans and Specifications can be obtained at the offices of Freeman Architects, 202 M Street, Suite B, Eureka, CA, 95501 or at the Trinidad Town Hall, upon non-refundable payment of $75.00. The documents will also be available for review at the Humboldt Builders Exchange, Eureka, CA.

Bids must be received at the **Trinidad Town Hall by Tuesday, August 24, 2010 at 2:00 pm** (Pacific Daylight Time), at which time they will be publicly opened. A pre-bid conference will be held at 9:00 am on Wednesday, August 8, 2010 at the Trinidad Town Hall.

Each proposal must be submitted on the prescribed form and accompanied by a certified check or Bid Bond in an amount equal to not less than 10 percent of the amount bid. Successful bidders will be required to furnish both a Payment Bond and Performance Bond in the full amount of the Contract Price. In accordance with Public Contract Code Section 10263, the Contractor will be allowed to substitute securities for monies normally withheld by the City to insure performance under this contract.

The Contractor will be required to pay general prevailing wage rates as set by the Director of the Department of Industrial Relations, State of California. The Contractor will be required to comply with any changes in these wage rates as they are updated by the State government at no additional cost to the City.

It is the intent to formally issue a Notice of Award to the contractor by Friday, August 27, 2010 or soon thereafter. A formal Contract is anticipated to be executed with a formal Notice to Proceed by Tuesday, September 7, 2010. The allowable contract time is 120 calendar days.

8/15, 22

Freeman Architects AIA

202 M Street, Suite B, Eureka, California 95501
Phone: (707) 441-8740, Fax: (707) 443-0144

PRE-BID MEETING AGENDA

DATE: August 18, 2010, 9 AM
PROJECT: Saunders Park
MEETING LOCATION: Trinidad Town Hall and Project Site
FACILITATOR: Glenn Stockness

- Meeting Sign-in Sheet
- Date, Time, and Place of Bid Opening
    - Bids shall be in a sealed envelope with the name of Contractor, Contractor License Number, project name, date/time of bid opening, on the outside of sealed envelope.
    - Requirement to clock-in bid before bid time is called by Owner.
    - No bids will be accepted after bid time is called.
    - No bids will be accepted on "water marked" bid package.
- Bid bond or a cashier's check must accompany the bid.
- Bid bond or cashiers check must be made payable to the Owner.
- Requirement to discuss any conflict between the plans and specifications and /or the project requirements/site conditions with the Design Professional prior to the bid but no later than five (5) days prior to the bid date.
- Contractor's responsibility to visit project site and review contract documents before bidding project.
- Plan issue date
- Addenda
- Scope of work
- Site conditions
    - Parking (restrictions or unrestricted)
    - Material storage requirements
    - Access to building/site
    - Use of facilities/site (restricted or unrestricted)
    - Protection of facilities and equipment
    - Working on site (noise, safety requirements, hours etc.)
- Schedule for completion
- Liquidated damages
- Site/facility walk through
- Nothing stated at the conference will change the project documents unless a subsequent addendum is issued.
- Recap and questions

AGENDA ITEM #2

SUPPORTING DOCUMENTATION FOLLOWS WITH: 3 PAGES

2. Report on ADA Compliance in Trinidad

DISCUSSION/ACTION AGENDA ITEM X.2
Date: August 25, 2010

Item: **REPORT ON ADA COMPLIANCE IN TRINIDAD**

Background: At the December 2009 meeting of the Board of Directors of PARSAC (the City's liability and casualty insurance provider), one of the topics covered was the need of municipalities to assess their compliance with the Americans with Disabilities Act (ADA). The ADA, now 20 years old, establishes requirements for meeting handicapped accessibility in public spaces.

PARSAC provided a survey form that is intended its municipal members to assess their level of compliance with the ADA. While it is clearly understood that no City will ever be perfect in this regard, there is the need to address or have a plan for addressing the most glaring violations. This should be done for the dual purpose of making your City more accessible to handicapped persons and to limit potential liability to the City.

Ex-City Councilman and resident Jim Cuthbertson was requested to volunteer to assist in this assessment. He has looked City-wide in Trinidad for potential problem areas as relates to City properties and facilities. This is not a survey of access issues to privately owned properties.

He will be at the meeting to present his findings.

Staff Recommendation: Receive and file the report, and give whatever direction to staff that is deemed appropriate by the members of the Council.

Attachments: Report and Map prepared by Jim Cuthbertson.

DATE: January 28, 2010

TO: Steve Albright

FROM: Jim Cuthbertson

SUBJECT: Access for Disabled People / Safety Issues

Listed below are problem areas in the Trinidad downtown area that effect accessibility for disabled individuals walking or using motorized when chairs or scooters.

Main & Scenic:
Install new, modern street light – essential at dangerous corner – top priority!
Move fire hydrant back into planter area.
Relocate stop sign **OR** Resurface walkway, extending it to the utility boxes
Install ramp @ SE corner
Build walkway w/ramps under S side of underpass
Resurface entire asphalt walkway along perimeter of Murphy's

Patricks Pt & Janis Court:
Install ramp

Main near Stagecoach:
Move "School Xing" sign another foot from sidewalk
Remove parking limit signs (Necessary only during special events/not enforced)

Main View:
Move stop sign away from sidewalk & resurface corner in front of Murphy's

Trinity Street:
Move fire hydrant on curve to W side of street
Relocate two sign posts in front of school
Move five light poles away from sidewalk
Trim vegetation falling onto/over sidewalks – restricts foot traffic

City Hall:
Install break-out door @ foyer entrance & place lever type handle on exterior door
Install "alert button" at SW corner to alert city personnel that disabled person needs assistance entering building (Gabe's suggestion)

Wagner & Ocean:
Remove signage not approved by Planning Commission
Remove post in easement that obstructs access to Old Wagon Road Trail

Edwards:
Restrict parking on N side
Move disabled parking space to E side of lighthouse ("no RV parking" area) **OR**
Level present site & place stripes on opposite side of parking space (van accessible)

Trails: Repair chuck holes & trim vegetation on all trails

... beauty and romance, hiking and whale watching, winter storms and nature at the finest.

discover

TRINIDAD
DETAIL CITY

discover
TRINIDAD
Greater Trinidad Chamber of Commerce

Trinidad – Where the Redwoods Meet the Sea

AGENDA ITEM #3

SUPPORTING DOCUMENTATION FOLLOWS WITH: 3 PAGES

3. Discussion of Vacation Dwelling Units Regulatory Ordinance

DISCUSSION/ACTION AGENDA ITEM X.3
Date: August 25, 2010

Item: **DISCUSSION OF VACATION DWELLING UNITS REGULATORY ORDINANCE**

Background: In December 2009, the City Council appointed members to a citizens' advisory committee to study and make recommendations regarding vacation dwelling units in the City of Trinidad.

The Committee completed its work over the next five months and presented its findings with some recommendations to the City Council at the June 2010 meeting. At that time, the Council thanked the Committee for its hard work and generally stated that it would take up the recommendations at a later date.

Included with the findings and recommendations from the Committee was a consensus recommendation that the Council enact an ordinance that would regulate (place rules upon) all existing and future vacation dwelling units. For clarification, a Vacation Dwelling Unit is defined as a housing unit which is rented for a period of less than 30 or more consecutive days.

Staff is bringing this portion of the Committee's report back to the Council at this time for additional discussion and direction.

Staff Recommendation: Consider the recommendation of the Vacation Dwelling Unit Committee to establish and Ordinance which will regulate VDUs in the City of Trinidad, and give direction to the staff as deemed appropriate by the members of the City Council.

Attachments: Recommended regulatory items from the presentation to the City Council on June 9, 2010.

VDU COMMITTEE
REGULATIONS

- When and if enacted, proposed regulations to impact current and potential future VDU's
- In the form of recommendations – will have to be translated to Ordinance form
- Model used from San Luis Obispo County, greatly modified to meet Trinidad needs
- Enforcement/punishment to be determined

VDU COMMITTEE
RECOMMENDED REGULATIONS

- Apply to all VDU's – no "grandfather"
- Two (2) persons per bedroom plus two (2) additional persons per VDU
- Additional two (2) persons in larger units (to be defined) to a Maximum of ten (10) persons
- One (1) off-street parking space per VDU bedroom
- Minimum two (2) nights stay in a VDU
- Emergency numbers to be posted
- Signs at the Unit (off the street)