



Posted: Friday, August 21, 2015

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

The Trinidad City Council will hold a Special Meeting on
WEDNESDAY, AUGUST 26, 2015 at 6:00 PM

MEETING LOCATION:

TRINIDAD SCHOOL MULTI-PURPOSE ROOM

- I. CALL TO ORDER
- II. PLEDGE OF ALLEGIANCE
- III. APPROVAL OF AGENDA
- IV. ITEMS FROM THE FLOOR *(Three (3) minute limit per Speaker unless Council approves request for extended time.)*
- V. DISCUSSION ITEMS
 1. Report and Discussion of Closed Session Action regarding Active Litigation in the case of Tsurai Ancestral Society vs. City of Trinidad;
- X. ADJOURNMENT

DISCUSSION/ACTION AGENDA

Date: August 26th 2015

Item: Report out of Prior (June 30) Closed Session and Discussion of Agreement between City of Trinidad and Tsurai Ancestral Society

Summary:

The City of Trinidad and the Tsurai Ancestral Society (Ancestral Society) have reached agreement on the conditions necessary to settle the two Ancestral Society lawsuits against the City over management of the Tsurai Study Area. The Agreement is attached (this is an unsigned version –the final signed version back from the Court yet, but it has been filed.)

The efforts to settle the lawsuits have been confidential, but with both parties having now signed the attached document, the agreement becomes public. This Special Meeting of the Trinidad City Council is being held to formally announce this agreement and allow the Council and the public the opportunity to discuss the matter in open session.

Under this agreement, the City is committing to make every reasonable effort to return this property to the ownership of the direct lineal descendants of Tsurai Village (Tsurai Ancestral Society) and the Yurok Tribe as co-owners. In addition, the City has committed \$20,000 towards implementation of the Tsurai Management Plan this year, and is agreeing to improve coordination and communication with the Ancestral Society to protect and recognize the significant cultural, religious, and archeological resources in the City. With reasonable progress on these efforts over the coming year, the lawsuits will be permanently settled. The agreement also extends the five year time frame to resolve the lawsuit by one year.

Background: The Tsurai Ancestral Society brought two lawsuits against the City of Trinidad in 2010 related to the City's management of the Tsurai Study Area. This 12.5 acre property includes Old Home Beach and the hillside above it, and has three public trails crossing it: the Axel Lindgren Memorial Trail, the Parker Creek Trail, and the Wagner Street Trail.

The lawsuits were related to incidents where citizens cut major vegetation on the property to enhance their views. The allegations against the City are that they failed to do more as property owner to protect the site, and to implement the 2007 Tsurai Management Plan

This agreement between the City of Trinidad and the Tsurai Ancestral Society (TAS) does two things: it extends the five year time limit to resolve the case by a year, and it lays out the specific terms and conditions necessary to permanently settle the case. Without the time extension, the City and TAS were headed to a jury trial this fall, with

significant legal expenses and unknown outcomes for both sides. With reasonable progress on the terms and conditions over the coming year, we will be able to permanently settle the lawsuits.

Management of the Tsurai Study Area is guided by the Tsurai Management Plan (2007) and overseen by the Tsurai Management Team that includes the Tsurai Ancestral Society, the Yurok Tribe, the City of Trinidad, and the California Coastal Conservancy.

Ownership Transfer:

This agreement indicates the City's commitment to work in good faith towards the transfer of the property to the Tsurai Ancestral Society and Yurok Tribe as co-owners. In broad terms, City staff sees such a transfer as both appropriate and beneficial to the City. We will be returning the property to the direct descendants of its original inhabitants, and relieving the City of what has been an ongoing liability.

The Tsurai Management Team will be the forum to work out the details of this land transfer. The actual transfer of ownership will come back to the Council as its own agenda item with a detailed evaluation that addresses key issues which include insuring the City continues to have a role in management of the property, and protecting existing public access.

Staff Recommendation:

There is no action required by Council. The direction to the City Attorney to sign the Agreement was given in closed session on June 30th 2015, but did not become public until the TAS attorney also signed in August 2015. Staff recommends the Council discuss the agreement and invite the public to comment.

CITY OF TRINIDAD

AND

TSURAI ANCESTRAL SOCIETY



Joint Media Release

August 21st, 2015

The City of Trinidad and the Tsurai Ancestral Society (Ancestral Society) have reached agreement on the conditions necessary to settle the two Ancestral Society lawsuits against the City over management of the Tsurai Study Area.

Under this agreement, the City is committing to return this property to the ownership of the direct lineal descendants of Tsurai Village (Tsurai Ancestral Society) and the Yurok Tribe. The City has budgeted \$20,000 towards implementation of the Tsurai Management Plan this year, and agreed to improve coordination and communication with the Tsurai Ancestral Society to protect and recognize the significant cultural, religious, and archeological resources in the City. With reasonable progress over the coming year, the lawsuits will be permanently settled.

“When we started this lawsuit, we were not sure of the outcome, but we knew we could no longer sit by and watch our village site continue to be destroyed by property owners trying to enhance their own view shed, or worse, others using the opportunities those property owners created to loot for artifacts. This agreement is the result of years of hard work by the Tsurai Ancestral Society and City of Trinidad. We look forward to working with the Tsurai Management Team to implement all of the projects outlined therein, and creating a healthy environment for our village, and the greater community to enjoy.” Said Axel Lindgren III Chairman of the Tsurai Ancestral Society

“This agreement is an important step forward in building an enduring partnership between the City and the Tsurai Ancestral Society. The Tsurai Village and the story of its people is a significant part of the history of Trinidad. We are looking forward to its return to Tsurai and Yurok ownership, and to working together on the management and protection of the property.” Said Mayor Julie Fulkerson

The Trinidad City Council is meeting on Wednesday August 26th at 6 p.m. to discuss the agreement with the community.

Background –

The Tsurai Ancestral Society is a nonprofit organization comprised of the direct lineal descendants of the Tsurai Village. The Tsurai Village is the largest, southernmost village located along the coastline within the Yurok Tribe’s territory.

The trails and beach on the property remain open to the public. The Coastal Conservancy holds a permanent public access easement on the property.

City funds are expected to go towards assessment and improvement of existing trails, vegetation maintenance, signs, and other projects identified in the Tsurai Management Plan. They may also be used as matching funds to help leverage additional resources for the property.

The lawsuits were related to incidents where citizens cut major vegetation on the property to enhance their views. The allegations against the City are that they failed to do more as property owner to protect the site, and to implement the 2007 Tsurai Management Plan. This agreement does not settle the lawsuit, but it defines the conditions for settlement and a timeframe to achieve it.

Management of the site is guided by the Tsurai Management Plan (2007) and overseen by the Tsurai Management Team that includes the Tsurai Ancestral Society, the Yurok Tribe, the City of Trinidad, and the California Coastal Conservancy.

Contacts:

City of Trinidad:

Julie Fulkerson, Mayor, 707-845-1125

Dan Berman, City Manager, 707-498-4937

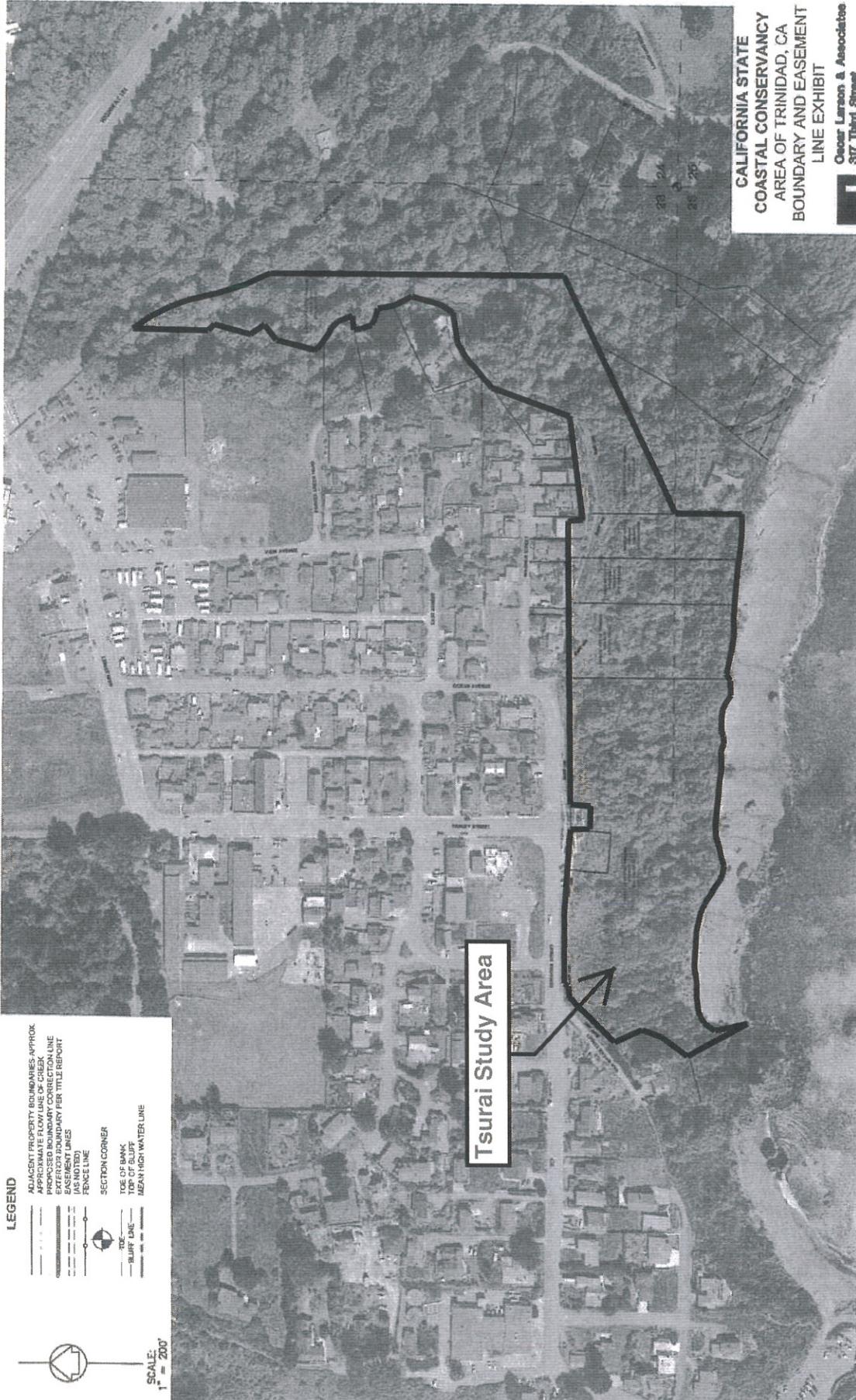
Tsurai Ancestral Society:

Attorney Zachary Zwerdling, 707-445-9628

LEGEND

- ADJACENT PROPERTY BOUNDARIES APPROX.
- APPROXIMATE FLOW LINE OF CREEK
- PROPOSED BOUNDARY CORRECTION LINE
- BOUNDARY CORRECTION LINE PER TITLE REPORT (AS NOTED)
- EASEMENT LINES
- FENCE LINE
- SECTION CORNER
- TOE OF BANK
- TOE OF DIRT
- MEAN HIGH WATER LINE
- BURF LINE

SCALE:
1" = 200'



Tsurai Study Area

**CALIFORNIA STATE
COASTAL CONSERVANCY
AREA OF TRINIDAD, CA
BOUNDARY AND EASEMENT
LINE EXHIBIT**

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7 Attorneys for
8 TSURAI ANCESTRAL SOCIETY, et al.,

9
10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **IN AND FOR THE COUNTY OF HUMBOLDT**

12 TSURAI ANCESTRAL SOCIETY, et al.,

Case No. DR100981 and DR130589

13 Plaintiffs,

**STIPULATION RE SETTLEMENT AND
CONTINUANCE OF TRIAL AND
EXTENSION OF FIVE YEAR STATUTE**

14 vs.

15 CITY OF TRINIDAD, et al.

16 Defendants.

17
18 The City of Trinidad represented by attorney Andrew Stunich, Esq. and Plaintiffs
19 represented by Zwerdling, Bragg, Mainzer & Firpo, LLP hereby submit the following Stipulation
20 and Terms of Settlement to the Court as follows:

21 1. The City of Trinidad and Plaintiffs' hereby stipulate that the 5 year statute set forth
22 in C.C.P. § 583.310 et seq. can be extended from November 17, 2015, (which is the five year
23 anniversary of the filing of the original complaint in this matter, to November 17, 2016) a period
24 of one year.

25 In addition, the parties agree to the following terms and conditions, which if met, will result
26 in a complete dismissal with prejudice of all claims against the City of Trinidad arising from the two
27 incidents that form the basis of the two lawsuits pending against the City of Trinidad (DR100981
28 and DR130589). Those conditions are as follows:

1. The City of Trinidad budgets \$20,000.00 to begin implementation of the Tsurai

1 Management Plan;

2 2. The City of Trinidad begins work on projects in the Tsurai Study Area within six
3 months of the signing of this agreement;

4 3. The City of Trinidad commits itself to making every reasonable effort to get the
5 Tsurai Study Area transferred to the Yurok Tribe and the Tsurai Ancestral Society within 1 year from
6 the signing of this agreement;

7 4. The City of Trinidad will fully include the Tsurai Ancestral Society in future projects
8 concerning Trinidad Head;

9 5. The City of Trinidad commits itself to consulting with the Tsurai Ancestral Society
10 whenever engaging in ground disturbing activities within City owned properties;

11 6. The City of Trinidad commits itself to consulting with the Tsurai Ancestral Society
12 on any work towards modifying or revising Policy 69. The Plaintiffs and the City of Trinidad agree
13 that Policy 69 is in need of revision. The Tsurai Ancestral Society wants to participate fully in any
14 future revision of Policy 69.

15
16 The parties further agree that a Case Management Conference will be scheduled in six
17 months at which time the parties and the Court will review the status of the settlement agreement
18 and whether the conditions set forth above are being met. Each side, the City of Trinidad and the
19 Plaintiffs, reserve the right to request a Jury Trial at the Case Management Conference. It is the
20 parties hope and desire however that a Trial in this case will not be necessary and that this settlement
21 will be implemented fully resulting in a dismissal of the two pending actions.
22

23 Dated: _____

ZWERDLING, BRAGG & MAINZER, LLP

24 By: _____

25 ZACHARY E. ZWERDLING
26 Attorneys for Tsurai Ancestral Society, et al.

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27 //
28 //

1 Dated: _____

PERLMAN & STUNICH

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By: _____
ANDY STUNICH
Attorneys for City of Trinidad

ORDER

GOOD CAUSING HAVING BEEN SHOWN, the Deadline for Trial of this matter is extended one year per C.C.P. § 583.310 to November 17, 2016. Further, a Case Management Conference will be scheduled on _____ to review progress in implementing the Settlement Agreement contained herein. Either side in this case can request a Jury Trial at that time if requested. Said Jury Trial is to be scheduled before November 17, 2016.

IT IS SO ORDERED.

DATE: _____

JUDGE OF THE SUPERIOR COURT